



CITY OF COSTA MESA

PLANNING COMMISSION

Agenda

Monday, January 22, 2024

6:00 PM

**City Council Chambers
77 Fair Drive**

The Commission meetings are presented in a hybrid format, both in-person at City Hall and as a courtesy virtually via Zoom Webinar. If the Zoom feature is having system outages or experiencing other critical issues, the meeting will continue in person.

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4. Additionally, members of the public who wish to make a written comment on a specific agenda item, may submit a written comment via email to the PCPublicComments@costamesaca.gov. Comments received by 12:00 p.m. on the date of the meeting will be provided to the Commission, made available to the public, and will be part of the meeting record.

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Note regarding agenda-related documents provided to a majority of the Commission after distribution of the agenda packet (GC §54957.5): Any related documents provided to a majority of the Commission after distribution of the Agenda Packets will be made available for public inspection. Such documents will be posted on the city's website and will be available at the City Clerk's office, 77 Fair Drive, Costa Mesa, CA 92626.

All cell phones and other electronic devices are to be turned off or set to vibrate. Members of the audience are requested to step outside the Council Chambers to conduct a phone conversation.

Free Wi-Fi is available in the Council Chambers during the meetings. The network username available is: CM_Council. The password is: cmcouncil1953.

As a LEED Gold Certified City, Costa Mesa is fully committed to environmental sustainability. A minimum number of hard copies of the agenda will be available in the Council Chambers. For your convenience, a binder of the entire agenda packet will be at the table in the foyer of the Council Chambers for viewing. Agendas and reports can be viewed on the City website at <https://costamesa.legistar.com/Calendar.aspx>.

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PLANNING COMMISSION REGULAR MEETING

JANUARY 22, 2024 – 6:00 P.M.

ADAM ERETH
Chair

RUSSELL TOLER
Vice Chair

JOHNNY ROJAS
Planning Commissioner

ANGELY ANDRADE VALLARTA
Planning Commissioner

Karen Klepack
Planning Commissioner

JON ZICH
Planning Commissioner

JENNIFER LE
Director of Economic and
Development Services

JIMMY VIVAR
Planning Commissioner

TARQUIN PREZIOSI
Assistant City Attorney

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ANNOUNCEMENTS AND PRESENTATIONS

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA
Comments are limited to three (3) minutes, or as otherwise directed.

COMMISSIONER COMMENTS AND SUGGESTIONS

CONSENT CALENDAR:

All matters listed under the Consent Calendar are considered to be routine and will be acted upon in one motion. There will be no separate discussion of these items unless members of the Planning Commission, staff, or the public request specific items to be discussed and/or removed from the Consent Calendar for discussion. The public can make this request via email at PCPublicComments@costamesaca.gov and should include the item number to be addressed. Items removed from the Consent Calendar will be discussed and voted upon immediately following Planning Commission action on the remainder of the Consent Calendar

1. [DECEMBER 11, 2023 UNOFFICIAL MEETING MINUTES](#) [24-030](#)

RECOMMENDATION:

Planning Commission approve the regular meeting minutes for the December 11, 2023 Planning Commission meeting.

Attachments: [December 11, 2023 Unofficial Meeting Minutes](#)

PUBLIC HEARINGS:

1. [LOCAL HISTORIC REGISTER FOR THE “LEROY ANDERSON 24-025 HOUSE” \(208 MAGNOLIA STREET\)](#)

RECOMMENDATION:

Staff recommends the Planning Commission adopt a Resolution to:

1. Recommend that the City Council designate the property on the City's local Historic Register by adoption of a City Council resolution; and
2. Recommend the City Council direct Planning staff to finalize a draft Mills Act Contract for City Council consideration and approval.

Attachments: [Agenda Report](#)

[1. Draft Planning Commission Resolution](#)

[2. Applicant Letter](#)

[3. Vicinity Map](#)

[4. Zoning Map](#)

[5. Historical Assessment Report](#)

[6. Mills Act Contract](#)

[7. Rehabilitation Plan](#)

[8. State Inventory Form](#)

2. [ORDINANCE TO AMEND TITLE 13 \(PLANNING, ZONING AND 24-029 DEVELOPMENT\) OF THE COSTA MESA MUNICIPAL CODE AND ORDINANCE TO AMEND TITLE 9 \(LICENSES AND BUSINESS REGULATIONS\) FOR MODIFICATIONS TO THE CITY’S RETAIL CANNABIS PROVISIONS](#)

RECOMMENDATION:

Staff recommends the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) in that the updates to the City’s retail cannabis provisions will not have a significant impact on the environment; and
2. Recommend that the City Council give first reading to ordinances approving Code Amendment No. 2024-XX, amending portions of the Costa Mesa Municipal Code Title 13 (Planning Zoning, and Development), and Code Amendment No. 2024-XX, amending portions of Title 9 (Licenses and Business Regulations), both pertaining to retail cannabis storefront regulations.

Attachments: [Agenda Report](#)

- [1. September 5, 2023 City Council Minutes](#)
- [2. Draft Planning Commission Resolution Title 13](#)
- [3. Draft Planning Commission Resolution Title 9](#)
- [4. Exhibit A Title 13](#)
- [5. Exhibit A Title 9](#)
- [6. Redlines Title 13](#)
- [7. Redlines Title 9](#)

OLD BUSINESS: NONE

NEW BUSINESS: NONE

DEPARTMENT REPORTS:

1. PUBLIC WORKS REPORT
2. DEVELOPMENT SERVICES REPORT

CITY ATTORNEY REPORTS:

1. CITY ATTORNEY

ADJOURNMENT

PLANNING COMMISSION MEETING:

Costa Mesa Planning Commission meets on the second and fourth Monday of each month at 6:00 p.m.

APPEAL PROCEDURE:

Unless otherwise indicated, the decision of the Planning Commission is final at 5:00 p.m., seven (7) days following the action, unless an affected party files an appeal to the City Council, or a member of City Council requests a review. Applications for appeals are available through the City Clerk's Office; please call (714) 754-5225 for additional information.

CONTACT CITY STAFF:

77 Fair Drive, Costa Mesa, CA 92626
Planning Division (714) 754-5245
planninginfo@costamesaca.gov



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-030

Meeting Date: 1/22/2024

TITLE:

DECEMBER 11, 2023 UNOFFICIAL MEETING MINUTES

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/ PLANNING DIVISION

RECOMMENDATION:

Planning Commission approve the regular meeting minutes for the December 11, 2023 Planning Commission meeting.

UNOFFICIAL UNTIL APPROVED

**MEETING MINUTES OF THE CITY OF
COSTA MESA PLANNING COMMISSION**

December 11, 2023

CALL TO ORDER

The Chair called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Commissioner Rojas led the Pledge of Allegiance.

ROLL CALL

Present: Chair Adam Ereth, Vice Chair Russell Toller, Commissioner Angely Andrade, Commissioner Karen Klepack, Commissioner Jonny Rojas, Commissioner Vivar, Commissioner Jon Zich

Absent: None

Officials Present: Director of Development Services Jennifer Ie, Assistant Director of Development Services Scott Drapkin, Assistant City Attorney Tarquin Preziosi, Principle Planner Nancy Huynh, Assistant Planner Christopher Aldana, Contract Planner Michelle Halligan, City Engineer Seung Yang and Recording Secretary Anna Partida

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA:

Alexander Hubberbush, spoke on oversaturation of cannabis storefronts in the City and urged the Commission to consider the longer-term effects of approving so many store fronts.

COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Vivar thanked staff for their hard work. He thanked his fellow Commissioners on their work and dedication to the community.

Commissioner Rojas echoed commissioner Vivar. He thanked staff and his fellow Commissioners.

UNOFFICIAL UNTIL APPROVED

Commissioner Zich echoed his fellow Commissioners and thanked the public for their attendance.

Commissioner Andrade echoed her fellow Commissioners thanking everyone in attendance, encouraged the public to provide feedback on what they would like for the future of Costa mesa and she shared her excitement for the Snoopy House event.

Vice Chair Toler echoed his fellow commissioners and thanked everyone in attendance, spoke on the 405-Improvement Project, he informed the public on regular Wednesday night bike ride put on by Lillordag bike ride.

Chair Ereth echoed his fellow Commissioners by thanking the staff and fellow Commissioners. He also thanked the public for their attendance.

The Chair called for a five minute break due to technical difficulties at 6:17p.m.

The Chair called the meeting back into order at 6:22p.m.

CONSENT CALENDAR:

No member of the public nor Commissioner requested to pull a Consent Calendar item.

1. APPROVAL OF MEETING MINUTES: NOVEMBER 27, 2023

MOVED/SECOND: Toler/Rojas

MOTION: Approve recommended action for Consent Calendar Item No. 1.

The motion carried by the following roll call vote:

Ayes: Ereth, Toler, Andrade, Klepack, Rojas, Vivar, Zich

Nays: None

Absent: None

Abstained: None

Motion carried: 7-0

ACTION: Planning Commission approved the minutes of the regular meeting of the November 27, 2023.

PUBLIC HEARINGS:

The Chair announced there would be a reordering of the Agenda.

3. MINOR CONDITIONAL USE PERMIT APPLICATION ZA-22-11 FOR A DRIVE THROUGH OPERATION AND A REDUCTION OF REQUIRED PARKING; DEVELOPMENT REVIEW (PDVR-23-0003) TO ALLOW THE DEMOLITION OF AN EXISTING 25,159-SQUARE-FOOT COMMERCIAL BUILDING AND TO CONSTRUCT A NEW 2,913-SQUARE-FOOT RAISING CANES RESTAURANT

UNOFFICIAL UNTIL APPROVED

WITH 1,303-SQUARE-FEET OF COVERED OUTDOOR PATIO AREA; MINOR MODIFICATION PMND-23-0003 TO ALLOW FOR A DECREASE OF 20% IN REQUIRED FRONT YARD/LANDSCAPE SETBACK; FOR A PROPERTY LOCATED AT 1595 OLD NEWPORT BOULEVARD

Project Description: Zoning Application 22-11, Development Review PDVR-23-0003, and Minor Modification PMND-23-0003 is a request to demolish an existing 25,159-square-foot furniture store and to construct a new 2,913-square-foot drive-through restaurant (Raising Cane's) and a 1,303-square-foot outdoor patio. The proposed hours of operation are 9 a.m. to 2 a.m. Sunday through Wednesday, 9 a.m. to 3:30 a.m., Thursday through Saturday. The proposed request also involves a reduction of the drive-through lane width from the standard 11-foot width to 10-foot, a deviation from the required parking by seven spaces, and a 20% reduction in the required front building setback.

Environmental Determination: The project is exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303 (Class 3), for new construction and conversion of small structures, and section 15332 (Class 32) in-fill development projects.

Two ex-parte communications reported

Commissioner Zich visited the site, spoke with a member of the public and visited a different location.

Chair Ereth had two phone calls with the applicant.

Commissioner Vivar made a motion. Seconded by Commissioner Ereth.

MOVED/SECOND: Vivar/Rojas

MOTION: to continue the item to January 8, 2024 Planning commission meeting.

The motion carried by the following roll call vote:

Ayes: Ereth, Toler, Andrade, Rojas, Klepack, Vivar Zich

Nays: None

Absent: None

Recused: None

Motion carried: 7-0

ACTION: The Planning Commission continued the item to the January 8, 2024 Regular Planning Commission Meeting.

4. PLANNING APPLICATION 22-22 FOR A CONDITIONAL USE PERMIT TO OPERATE A RETAIL CANNABIS STOREFRONT BUSINESS WITH DELIVERY LOCATED AT 1858 NEWPORT BOULEVARD (“EVOLV HERBAL”) 23-1485 RECO

UNOFFICIAL UNTIL APPROVED

Project Description: Planning Application 22-22 is a request for a Conditional Use Permit to allow a 2,280-square-foot retail cannabis storefront with delivery within an existing single-story commercial building located at 1858 Newport Boulevard.

Environmental Determination: The project is exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1), Existing Facilities.

Five ex-parte communications reported.

Commissioner Zich stated he held a phone call with applicant Mark Adams and spoke with one member of the public.

Commissioner Andrade received an email correspondence from the applicant, Mark Adams.

Commissioner Vivar held a phone call with the attorney representing the east side residents and received an email from Mark Adams.

Commissioner Klepack spoke with Mark Adams briefly after the last Planning Commission meeting.

Commissioner Ereth received an email from Mark Adams and an attorney for East Side Residents.

Michelle Halligan, Contract Planner, presented the staff report.

The Commission asked questions of staff including discussion of: neighboring parcel at 115 Flower Street, increased risk of crime, property value, already approved Conditional Use Permits (CUPS) located near the proposed location, and the previous tenant.

The Chair opened the Public Hearing.

Mark Adams, applicant, stated he had read and agreed to the conditions of approval.

The Commission asked questions of the applicant including discussion of: percentage of sale of medical vs. recreational products, what sets Evolve Herbal apart from other Cannabis storefronts, outreach to neighboring businesses, reasons the applicant caters to an older demographic, community outreach, nearby businesses, the applicants business plan, the applicants response to community concerns, cannabis banking institutions, age demographics, local employee recruitment, labor unions, and potential issues having the word 'herbal' in their business name.

The Chair opened public comments.

UNOFFICIAL UNTIL APPROVED

Francine Howard spoke in opposition of the item.

Alexander Hubberbush spoke in opposition of the item.

Tracy Mitcham spoke in opposition of the item.

Speaker four spoke in opposition of the item.

Janis Brownsburg spoke in opposition of the item.

Speaker six, spoke on accessibility for the disabled and the discouragement of cannabis storefronts calling the police.

Kristine Trolley, spoke in opposition of the item.

Iggy Israel, spoke in opposition of the item.

Janet Locus spoke in opposition of the item.

The Chair closed public comments.

The Commission asked questions of the applicant and staff including discussion of: public outreach letters, public noticing, financial impacts for homeowners near cannabis storefronts, tax revenue from cannabis retailers, current codes and recommendation from the council.

The Chair closed the Public Hearing.

Commissioner Ereth made a motion. Seconded by Commissioner Vivar.

The Commission discussed the motion including: competing use, land use policy 1.1 and 3.1, mix and balances of goods and services, Councils' goals regarding City fiscal health, Planning Commission's role in the City, current ordinance and project adverse impacts.

Commissioner Zich made a substitute motion to Approve. Seconded by Vice Chair Toler.

The Commission discussed the motion including: current ordinance provisions, voice of the residents, Land-use Policies: 1.1, 6.15 and 3.1, expectations of Planning Commissioners and over concentration of cannabis storefronts.

MOVED/SECOND: Zich/Toler

MOTION: Approve staff's recommendation.

The motion failed by the following roll call vote:

Ayes: Toler, Klepack, Zich

UNOFFICIAL UNTIL APPROVED

Nays: Ereth, Andrade, Rojas, Vivar
 Absent: None
 Recused: None
 Motion failed: 3-4

Motion Failed.

Chair called the Question for the original motion.

MOVED/SECOND: Ereth/Vivar

MOTION: to Deny Planning Application 22-22.

The motion carried by the following roll call vote:

Ayes: Ereth, Andrade, Rojas, Vivar

Nays: Toler, Klepack, Zich

Absent: None

Recused: None

Motion carried: 4-3

ACTION: The Planning Commission adopted a resolution to: Deny Planning Application 22-22.

RESOLUTION PC-2023-31 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA DENYING PLANNING APPLICATION 22-22 FOR A STOREFRONT RETAIL CANNABIS BUSINESS (EVOLV HERBAL) WITH DELIVERY IN THE C2 ZONE AT 1858 NEWPORT BOULEVARD

1. ORDINANCE AMENDING TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE TO ESTABLISH AFFORDABLE HOUSING REQUIREMENTS FOR NEW RESIDENTIAL DEVELOPMENT PROJECTS

The Planning Commission review and recommendation to the City Council regarding a proposed code amendment that modifies Title 13 (Planning, Zoning, and Development) of the CMMC to establish affordable housing requirements. The proposed CMMC modifications would require certain residential development projects to provide a minimum percentage of their proposed dwelling units as affordable housing units, or pay a City-established in lieu-fee when applicable.

Environmental Determination: The ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3) (General Rule).

No ex-parte communications reported.

Nancy Huynh, Principel Planner, presented the staff report.

UNOFFICIAL UNTIL APPROVED

The Commission asked questions of staff including discussion of: affordable housing requirements set aside percentages, the amount of time a property will be considered affordable, tax credits, zoning for potential affordable ownership opportunities, rezoning, corridor areas, incentives for developers, and Density Bonus Law.

The Chair opened the Public Hearing.**The Chair opened public comments.**

Adam Wood, spoke on incentives for developers, the City creating threshold of ten units, exemption of ownership and housing fund availability.

Jen Tanaka, thanked the staff for their work on the ordinance. She also requested that staff provide a redline version of the ordinance, past practice and Council Policy, Measure Y impacts on zoning changes, encouraged the City to not look at past practice development.

Speaker three, suggested a 40 unit or more project threshold. He spoke on challenges of small lot development and encouraged a decrease in set-aside percentages for developers.

Tim O'Brian encouraged a 5% very low and 10% low for affordable housing.

Dianne Russell thanked the staff for their work and spoke on set-aside requirements.

George Sakioka encouraged the City to allow developers to provide specific affordable areas within an apartment building.

Kathy Esfahani spoke on set-aside requirements and high-density requirements.

Cynthia McDonald asked that the City raise the set-aside requirements to at least 15% low income and 10% very low income with no threshold on all new housing projects.

Richard Huffman stated he supports the Costa Mesa Affordable Housing Coalition letter and the statements made by Cynthia McDonald. He spoke on housing as a right and asked that the City take advantage of the areas that would allow high density development.

Speaker ten spoke on set-aside requirements, neighboring cities set-aside numbers and encouraged the city to raise the set-aside requirements to at least 15% low income and 10% very low income.

Cesare Covarrubias spoke on set aside requirements and encouraged the City to raise the set-aside requirements to at least 15% low income and 10% very low income.

UNOFFICIAL UNTIL APPROVED

The Chair closed public comments.

The Commission asked questions of staff which included the comparison of neighboring cities percentages.

The Chair closed the Public Hearing.

The Chair asked the Commission if they have any proposed language changes.

Vice Chair Toler spoke on his research using the inclusionaryhousing.org calculator. He stated based on his research he suggests 60 dwelling units per acre and a two-acre minimum threshold, and for set-aside percentage to go up as density increases.

Chair Ereth asked for staff opinion on a sliding scale for affordability. Staff responded stating it was a consideration. However, it did not match with how the Zoning Code is currently structured. Staff stated if the Planning Commission recommend a sliding scale, staff would present it to council. Chair Ereth asked staff if zoning code changes were considered to accommodate high density. Staff responded stating the focus of the Housing Element and future rezoning is to create those residential land use categories and to identify zones where staff can allow those higher density ranges in areas of the City where it is compatible.

Commissioner Zich provided his comments on the Ordinance. He stated he was against creating more rental opportunities and would rather the City focus on creating more ownership opportunities. He commented that he does not agree with having residents in the market rate units pay more in order to fund the development of affordable housing units. He stated the Ordinance as written will not get the City to its RHNA allocation numbers.

Commissioner Andrade stated she agreed with Vice Chair Toler's suggestion for a sliding scale. She referenced a letter the Planning Commission received from the Costa Mesa Affordable Housing Coalition letter and identifying areas for high density housing development. She asked staff to consider the areas identified.

Chair Ereth stated he strongly supports the creation of property ownership opportunities in the City of Costa Mesa. He expressed his thoughts on the benefits of property ownership within the community vs. providing more rental opportunities. He suggested 10% and 5% set-aside distribution. He stated that he does not agree to mandating higher percentages because from his determination it would take the City further away from its goal.

Commissioner Zich continued his comments by expressing his concerns with the approval of this ordinance. He stated that he understands there was an immense amount of work that went into the creation of this ordinance. However, he doesn't feel like it is ready for council review.

UNOFFICIAL UNTIL APPROVED

Chair Ereth continued his comments by expressing his understanding on the reasons behind the creation of this ordinance. He stated it was a necessary component for the City to get to where it needs to be pursuant to the Housing Element requirements. He asked staff to provide insight on the California Department of Housing and Community Development (HCD) housing requirements stipulated in the City's Housing Element. Staff responded with information on the process and objective of HCD.

Vice Chair Toler continued his comments, stating he agreed with most of Commissioner Zich's remarks. He provided these proposed ordinance modifications for consideration: a project threshold of 60 dwelling units per acre and a two-acre minimum site size, set-aside percentage to go up as density increases with a caveat for vacant land, Measure K sites only, exemption for ownership development, exemption on developments that provided benefits to the community, and set aside requirements of 10% and 5%. He finished his comments by expressing his concerns for housing in Costa Mesa.

Chair Ereth made a motion. Seconded by Commissioner Toler.

The Commission discussed the motion including: a 60 plus dwelling units per acre and a two-acre site size minimum threshold, set aside requirements of 10% and 5% and ownership projects exempted.

Commissioner Andrade made a substitute motion. Seconded by Commissioner Vivar.

The Commission discussed the substitute motion including: a 15% and 10% set aside requirement, with the option to make changes if needed in the future, and to keep everything else in previous motion.

MOVED/SECOND: Andrade/Vivar

MOTION: To send the Draft Ordinance to City Council with Planning Commissions recommended changes.

The motion failed by the following roll call vote:

Ayes: Andrade, Rojas, Vivar

Nays: Ereth, Toler, Kelpack, Zich

Absent: None

Recused: None

Motion failed: 3-4

The Planning Commission then considered the original motion.

MOVED/SECOND: Ereth/Toler

MOTION: To send the Draft Ordinance to City Council with Planning Commissions recommended changes.

The motion carried by the following roll call vote:

Ayes: Ereth, Toler, Rojas, Kelpack, Vivar

Nays: Andrade, Zich

UNOFFICIAL UNTIL APPROVED

Absent: None
 Recused: None
 Motion carried: 5-2

ACTION: The Planning Commission recommended that the City Council adopt the draft ordinance with the following recommended changes: a project threshold of 60 plus dwelling units per acre and a two-acre minimum site size, 10% low-income and 5% very-low income set-aside, and exemption of ownership projects.

RESOLUTION PC-2023-32 – A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE AMENDING TITLE 13 (PLANNING, ZONING, AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE TO ESTABLISH AFFORDABLE HOUSING REQUIREMENTS FOR NEW RESIDENTIAL DEVELOPMENT PROJECTS

The Chair called for a 10-minute break at 10:21p.m.

The Chair called the meeting back into order at 10:33p.m.

2. POTENTIAL ORDINANCE TO AMEND TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE AND REQUISITE MODIFICATIONS REQUIRED IN TITLE 9 (BUSINESS LICENSES) FOR MODIFICATIONS TO THE CITY’S RETAIL CANNABIS PROVISIONS

The Planning Commission recommendation to the City Council regarding a proposed code amendment that would modify Title 13 (Planning, Zoning, and Development) of the CMMC regarding the City’s retail cannabis provisions. The Planning Commission will also consider any requisite code modifications required in Title 9 (Business Licenses) that are specifically applicable to the City’s retail cannabis program.

Environmental Determination: The ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3) (General Rule).

No ex-parte communications

Michelle Halligan, Senior Planner, presented the staff report.

The Chair reopened the Public Hearing.

The Chair opened Public Comment.

Keith Shineburg spoke on his experience application process and asked that the Commission make exceptions to those already in the que.

UNOFFICIAL UNTIL APPROVED

Speaker two stated he opposed the cap and restriction on the Cannabis Ordinance. He stated he believes in protecting small businesses. He expressed that he did not think it was fair to cut off those already in the queue. He believes that the City would benefit from the tax revenue generated from these businesses.

Speaker three expressed her concerns with the ordinance. She continued to express her concerns for those already in the queue and the money they have spent.

The Chair closed public comment.

The chair closed the public hearing.

The Commission asked questions of staff including discussion of:

Allowing the word cannabis on signage:

Commissioner Vivar commented that he does not support allowing the word “cannabis” on signage. He argued that a member of the public can easily look up dispensaries. He was concerned the word “cannabis” would create an image for the City that residents do not want.

Commissioner Rojas stated he agreed with Commissioner Vivar.

Chair Ereth suggested an 8.5 X 11-inch sign that business can put on their door.

Commissioner Klepack stated she agreed with the door signage. She expressed her concerns for not allowing the business to advertise their products.

Vice Chair asked staff for clarification on what was already allowed on the storefront signage. Staff responded stating that the business was only allowed to provide their name, and the word “cannabis” was not allowed on any signage.

Chair Ereth asked staff what the standard text, symbol and sign size allowed on the storefront door. Staff responded by saying they were not given direction for symbols but sign size and text can be discussed by the Commission.

Commissioner Vivar asked staff if illuminated signs would be allowed. Staff responded by stating that it would only be storefront door signage.

Chair Ereth commented that he only supports allowing the word “cannabis” on storefront doors.

Commissioner Zich stated he agreed with Commissioner Klepack’s statements in regards to allowing businesses to advertise their products with the word “cannabis”.

UNOFFICIAL UNTIL APPROVED

Vice Chair Toler stated he was against the word “cannabis” on primary signs. He however supports the word cannabis on storefront doors.

Commissioner Andrade agreed with not allowing the word on primary signage and instead only allowing the word “cannabis” on storefront doors.

Chair Ereth asked if there was a standard lettering size for store front doors. Staff suggested allowing the text size the business would like with in a specific signage size.

The Chair asked the Commission by a show of hands of those who agree with allowing the word “cannabis” on the door only. All seven commissioners agreed to allow that word “cannabis” on storefront doors.

Adding limitations to prohibit the marketing of cannabis and cannabis products to youth:

Commissioner Zich referenced 26151 California Business Code. He believes that covers and protects against advertising to minors. He asked staff to elaborate on that code and asked about specific examples.

Commissioner Vivar asked staff if there was a State law that prohibits minors on advertisements. Staff responded stating that it is something that could be added to the code and is generally restricted pursuant to State cannabis law.

Commissioner Andrade suggested not allowing advertisements that were attractive to children and not allowing emojis.

The Chair asked the Commission for a show of hands of those who agree that advertising cannot contain a depiction of a person under 20 years of age consuming cannabis or cannabis products and that advertising is not to be attractive to youth. All seven Commissioners agreed to those advertising rules.

Strengthening of labor peace agreement requirements for cannabis store fronts:

Commissioner Zich commented that he liked the approach set forth in the staff report and asked staff whether they felt they needed to add anything in to the ordinance.

All seven of the Commissioners agreed that the existing regulations were sufficient.

Establishing provisions for notification and relocation assistance for existing businesses that would be displaced by retail cannabis uses:

UNOFFICIAL UNTIL APPROVED

Commissioner Vivar spoke on Caltrans requirements for relocation. He stated it would promote a healthy mix and balance for the city and supports adding language for relocation assistance.

Vice Chair Toler commented that he agreed with the sentiment of Commissioner Vivar. However, he questions whether adding that condition would be fair, consistent and logical based on not having that same condition for other uses.

Commissioner Zich stated that the City should not be undertaking the responsibility of how property owners and business owners negotiate their agreements.

Commissioner Klepack agreed with Commissioner Zich's statements.

Commissioner Vivar stated he agrees with the ideas that were expressed. However, believes that businesses where the landlord is not allowing a business to renew a lease in preparation for a cannabis business should provide relocation assistance.

Chair Ereth commented that although business displacement has happened, several retail cannabis storefront property owners have provided assistance or compensating to those displaced out of their own good will. He stated he recognizes that there are disadvantages for some existing businesses to possibly be displaced by future applications; however, he is not in favor of adding this type of assistance to the ordinance.

Commissioner Andrade suggested adding language conditioning property owners to provide a notice to the business being displaced.

Commissioner Vivar stated that there are different requirements for year leases vs. month to month leases.

Chair Ereth commented that property owners are at their own discretion to enter in and out of contracts.

The Chair asked the commission to raise their hands if they agree that no recommendation for notification or relocation assistance for business to be displaced shall be included with the revised ordinance. The majority of the commission agreed.

Commissioner Zich provided a list of issues he feels the council needs to address. The list included: the definition of a youth center, separation from youth centric businesses, adding separation from parks not just playgrounds, changing the process of evaluating existing nonconforming uses applying for a conditional use permit and adding a separation from group and recovery homes.

Chair Ereth made a motion to continue the item to January 22, 2024. Seconded by Vice Chair Toler.

UNOFFICIAL UNTIL APPROVED

MOVED/SECOND: Ereth/Toler

MOTION: to continue the item to the January 22, 2024 Regular Planning Commission meeting.

The motion carried by the following roll call vote:

Ayes: Ereth, Toler, Andrade, Rojas, Kelpack, Vivar, Zich

Nays: None

Absent: None

Recused: None

Motion carried: 7-0

The chair explained the appeal process.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

DEPARTMENTAL REPORTS

1. Public Works Report – None.
2. Development Services Report – None.

CITY ATTORNEY'S OFFICE REPORT

1. City Attorney – None.

ADJOURNMENT AT 11:45 PM

Submitted by:

SCOTT DRAPKIN, SECRETARY
COSTA MESA PLANNING COMMISSION



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-025

Meeting Date: 1/22/2024

TITLE:

LOCAL HISTORIC REGISTER FOR THE "LEROY ANDERSON HOUSE" (208 MAGNOLIA STREET)

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/
PLANNING DIVISION

PRESENTED BY: CAITLYN CURLEY, ASSISTANT PLANNER

CONTACT INFORMATION: CAITLYN CURLEY, 714-754-5692;
Caitlyn.Curley@costamesaca.gov <mailto:Caitlyn.Curley@costamesaca.gov>

RECOMMENDATION:

Staff recommends the Planning Commission adopt a Resolution to:

1. Recommend that the City Council designate the property on the City's local Historic Register by adoption of a City Council resolution; and
2. Recommend the City Council direct Planning staff to finalize a draft Mills Act Contract for City Council consideration and approval.



PLANNING COMMISSION

AGENDA REPORT

MEETING DATE: JANUARY 22, 2024 ITEM NUMBER: PH-1

**SUBJECT: LOCAL HISTORIC REGISTER FOR THE “LEROY ANDERSON HOUSE”
(208 MAGNOLIA STREET)**

**FROM: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/
PLANNING DIVISION**

PRESENTATION BY: CAITLYN CURLEY, ASSISTANT PLANNER

**FOR FURTHER INFORMATION CONTACT: CAITLYN CURLEY
714-754-5692
Caitlyn.Curley@costamesaca.gov**

RECOMMENDATION:

Staff recommends the Planning Commission adopt a Resolution to:

1. Recommend that the City Council designate the property on the City's local Historic Register by adoption of a City Council resolution; and
2. Recommend the City Council direct Planning staff to finalize a draft Mills Act Contract for City Council consideration and approval.

APPLICANT OR AUTHORIZED AGENT:

The property owner, John Barnett, is processing this request.

BACKGROUND:

The property owner at 208 Magnolia Street (Assessor Parcel Number 425-402-02) has submitted an application for placement of his residence on the City's local Historic Register, and approval of a Mills Act Contract. The subject property, also referred to as the “Leroy Anderson House”, is not currently listed on any federal, State, or local historic registers. However, this property is identified in the 1999 *City of Costa Mesa Citywide Historic Resources Survey* prepared by PCR Services Corporation as eligible for local landmark designation, and is also identified as a potential historical resource in the City's General Plan *Historical and Cultural Resources Element*. Specifically, the “Leroy Anderson House” was included as a potential historic resource in the 1999 Survey based on its locally significant historic architecture, and its association with an early prominent local citizen, Leroy Anderson.

The subject property is located on the north side of Magnolia Street between Orange and Westminster Avenues. The property consists of a one-story single-family residence facing Magnolia Street, with a two-story rear addition and garage facing the rear alley. Based on historic aerial photographs, the original house is estimated to have been constructed between 1927 and 1931 (no original permits are on record). However, the existing garage and second-story addition, located at the rear of the property, was constructed in 1997.

The original one-story portion of the residence is “L” shaped and has a steeply sloping cross-gable roof with front gable projection on the southwest corner, and has a combination of flush and enclosed, shallow eaves. The roof is clad in composition shingles and the exterior walls are clad in smooth stucco. The elevations are asymmetrically arranged and fenestrations consist of a combination of multi-light and single-light wood casement and double-hung sash windows in various groupings and sizes. Within the gable peaks are attic vents, each with three circular openings containing red clay vent tubes. Rectangular foundation vents with wire mesh are unevenly spaced across the building base. (See Exhibits A and B below for historic and current property photographs.)

Exhibit A – 1950 historic photo of 208 Magnolia Street



Exhibit B – Current photo of 208 Magnolia Street



Pursuant to the City's General Plan, "Costa Mesa is home to 31 historical properties, built environments, and landmarks that have been determined eligible for listing in the City's Local Register of Historic Places. Five of these historical properties have been determined eligible for listing in the National Register of Historic Places and in the California Register of Historical Resources". In 2008, the City Council approved the City's first and only property to be designated on the Costa Mesa local Historic Registry, and also approved the City's first Mills Act Contract at 546 Bernard Street ("the Huscroft House").

ANALYSIS:

Pursuant to the Costa Mesa Municipal Code (CMMC), the City Council, upon the recommendation of the Planning Commission, may designate any building, structure, site, object, district, improvement, or natural feature that is over fifty (50) years of age on the City's local historic register if it meets the criteria for listing in the National Register of Historic Places, or one or more of the City's local historic resource criteria as listed below:

- a. Exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, architectural, or natural history;
- b. Is identified with persons or events significant in local, state, or national history;
- c. Embodies distinctive characteristics of a style, type, period, or method of construction;
- d. Is a valuable example of the use of indigenous materials or craftsmanship;
- e. Represents the work of a notable builder, designer, or architect;
- f. Contributes to the significance of an historic area, being a geographically definable area possessing a concentration of historic or scenic properties or thematically related grouping of properties which contribute to each other and are unified aesthetically by plan or physical development;
- g. Has a unique location or singular physical characteristics or is a view or vista representing an established and familiar visual feature of a neighborhood, community or of the city;
- h. Embodies elements of architectural design, detail, materials, or craftsmanship that represent a significant structural or architectural achievement or innovation;
- i. Is similar to other distinctive properties, sites, areas, or objects based on a historic, cultural, or architectural motif;
- j. Reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning;
- k. Is a type of building or is associated with a business or use which was once common but is now rare; and/or
- l. Yields, or may yield, information important in prehistory or history; and retains the integrity of those characteristics necessary to convey its significance.

As previously indicated, in 1999, the subject property was identified in the *City of Costa Mesa Citywide Historic Resources Survey*, and the Survey indicated that the property was “Not eligible for the National Register but of local interest because the property is eligible for separate designation under an existing local ordinance.” In order to determine if the property at 208 Magnolia Street is a cultural resource pursuant the CMMC, an updated historic survey evaluation has been prepared by GPA Consulting (2023 - *Historic Assessment Report*). The Report includes a comprehensive building conditions assessment that documents the current conditions of the historic building (see Attachment 5). The conclusions of the Historic Report indicate that the property is eligible for City Historic Register designation as a local landmark under local criteria.

The Report specifically indicates that 208 Magnolia Street is eligible under CMMC criterion “a”, “because it reflects the transitional period of early residential development during which the former farming community of Harper evolved from an agricultural area to the more densely developed town of Costa Mesa, and is one of the earliest residences constructed in the Newport Heights Tract during that period. The period of significance under criterion “a” is 1927. Additionally, the Report indicates that the property is eligible under CMMC criterion “b” because the house was the long-term residence of Leroy P. Anderson, a prominent local attorney who was instrumental in the early development of Costa Mesa. The period of significance under criterion “b” is 1936 to 1957, when Anderson resided at the property.

Lastly, the 2023 Report provides an analysis of the subject property’s “character-defining features”. According to the Report, “character-defining features are the architectural components that contribute to a building's sense of time and place. Character-defining features can be generally grouped into three categories: (1) the overall visual character of a building, (2) the exterior materials and craftsmanship, and (3) the interior spaces, features, and finishes. The relative importance of character-defining features depends on the level of craftsmanship, visibility, and integrity”. The Report concludes that the residence located at 208 Magnolia Street retains integrity of location, design, setting, feeling, and association, and has sufficient physical integrity to convey its historical significance.

MILLS ACT CONTRACT AND FISCAL REVIEW

Mills Act Contract

Pursuant to CMMC Section 13-200.11 (Preservation Incentives), the City Council may adopt a program of economic and other incentives to support the preservation, maintenance, and appropriate rehabilitation of the City’s cultural resources. The owner of 208 Magnolia Street is requesting local historic register designation and also approval of a Mills Act contract.

The Mills Act is a State law allowing cities to enter into contracts with the owners of historic structures. Such contracts allow for a reduction of property taxes in exchange for the continued preservation of an historic resource. The Mills Act law enables the City Council to enter into a 10-year contract with owners of historic properties. Under these contracts

("Mills Act contracts"), owners agree to maintain and if necessary rehabilitate their historic structures with specific improvements during a 10-year contract period, and subsequently maintain the property pursuant to local, State and federal historic laws. Mills Act Contracts automatically extend annually for one-year after the initial 10-year term.

The intention of the Mills Act Contract tax benefit is to provide the historic property owners with greater means and motivation for historic property maintenance, which can be especially beneficial for underutilized or undermaintained properties. The City does not control or set the assessed value of property and benefits under the Mills Act Contract. This value and the ultimate property tax paid by the property owner is determined by the Orange County Assessor's Office, using a formula that is established by the State Mills Act legislation. Pursuant to California Government Code Section 50281 (State Mills Act Legislation), Mills Act Contracts shall contain the following provisions:

- a) The term of the contract shall be for a minimum period of 10 years, and all protections and incentives for the property owner and City will remain in effect following the 10-year contract period; and
- b) Where applicable, the contract shall provide the following:
 1. Preservation of the historic resource, and conformance with rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.
 2. For an inspection of the interior and exterior of the premises by the City, prior to a new agreement, and every five years thereafter, to determine the owner's compliance with the contract.
 3. For it to be binding upon, and continue to benefit all successors in interest of the property.

Pursuant to State Code Section 50281, if the City Council designates the subject property on the City's Historic Register and also approves a Mills Act Contract, the contract would include the aforementioned provisions and a "Rehabilitation / Restoration / Maintenance Plan". The City's Historic Consultant and the applicant have worked together to prepare the proposed project Rehabilitation / Restoration / Maintenance Plan (see Attachment 7.) The Plan includes an itemized future property maintenance schedule to be completed within a 10-year contract term. The schedule includes the specific work/task to be completed, the building features to be improved and the date in which the work/task will be completed within the 10-year contract.

Fiscal Review

The City's Finance division recently reviewed the proposal and estimated the proposed Mills Act Contract fiscal impact to the City. Based on the County of Orange's assessed value of \$1.9 million for the subject property, the City's estimated property tax revenue reduction following adoption of the Mills Act contract is \$2,825 annually. This tax reduction may increase or decrease each year in proportion to its assessed property value.

GENERAL PLAN CONFORMANCE:

The Costa Mesa General Plan establishes the long-range planning and policy direction that guides change and preserves the qualities that define the community. The 2015-2035 General Plan sets forth the vision for Costa Mesa. This vision focuses on protecting and enhancing Costa Mesa's diverse residential neighborhoods, accommodating an array of businesses that serve local needs and attract regional and international spending, and provide cultural, educational, social, and recreational amenities that contribute to the quality of life in the community. Over the long term, General Plan implementation will ensure that development decisions and improvements to public and private infrastructure are consistent with the goals, objectives, and policies contained in this Plan. The project is consistent with the following applicable General Plan Historical and Cultural Resources (HCR) Element policies:

Policy HCR-1.1: *Encourage protection and enhancement of the diverse range of historical sites and resources in the City for the benefit of current and future residents and visitors.*

Consistency: Designating the "Leroy Anderson House" on the City's Local Historic Register will allow a City historic resource to be protected, consistent with the purpose of the Historical and Cultural Resources Element of the City's General Plan.

Policy HCR-1.2: *Encourage the preservation of significant historical resources by developing and implementing incentives such as building and planning application permit fee waivers, Mills Act contracts, grants and loans, and implementing other incentives identified in the Historical Preservation Ordinance.*

Consistency: Adding the "Leroy Anderson House" to the local Historic Register and approving a Mills Act contact for the property will result in continued preservation of a significant Costa Mesa historic resource, and is consistent with General Plan Goal HCR-1.2.

FINDINGS

Pursuant to CMMC Section 13-200.9(2)(b) – "Findings", in order to designate the subject property on the City's Historic Register, the City Council upon the recommendation of the Planning Commission must find that:

- *The site, building, structure, district, object, natural feature or improvement has special historical, archaeological, cultural, architectural, community value in the City, and that the purpose of the City's Historic Preservation Ordinance is maintained by such designation.*

The 2023 GPA Historic Assessment Report indicates that the residence located at 208 Magnolia Street has special historical, architectural and community value in that the structure reflects the transitional period of early Costa Mesa residential

development during which the former farming community of Harper evolved from an agricultural area to the more densely developed town, and is one of the earliest residences constructed in the Newport Heights Tract during that period. Additionally, the Report indicates that the subject residence has community value in that the house was the long-term residence of Leroy P. Anderson, a prominent local attorney who was instrumental in the early development of Costa Mesa (see the below Exhibit D).

Exhibit D - 1928 Chamber of Commerce, Anderson at bottom right. Source: *Early Costa Mesa*.



Further, preservation of this historical residence is consistent with the City's Historic Preservation Ordinance "Purpose" in that designating the property on the City's Historic Registry will: (1) further safeguard the City's heritage as embodied and reflected in the subject property, (2) encourage public knowledge, understanding, and appreciation of the City's past by fostering civic and neighborhood pride and a sense of identity based on the recognition of a cultural resource, (3) preserve a diverse and harmonious architectural style that reflects the City's history, and (4) enhance property values and increase economic and financial benefits to the City by protecting a local neighborhood historical resource asset.

ENVIRONMENTAL DETERMINATION

Exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) (“General Rule”) in that there is no possibility that the addition of the Leroy Anderson House to the Local Register will have a significant impact on the environment.

ALTERNATIVES

The following alternatives are available to Planning Commission:

1. Recommend approval to City Council of the designation of the “Leroy Anderson House” on the City's local Historic Register, and City Council implement a Mills Act Contract at 208 Magnolia Street; or
2. Recommend denial to City Council of the placement of the Leroy Anderson House on the City's Local Register and not approve a Mills Act Contract.

LEGAL REVIEW

This report has been approved as to form by the City Attorney's Office.

CONCLUSION

The placement of the of the Leroy Anderson House on City's local Historic Register will provide protection to ensure that a City historic resource is maintained and that no substantial modifications can be made without prior City approval. Future implementation of the Mills Act Contract would allow the property owner to receive tax benefits as long as the house remains on the Local Register and in Mills Act contract compliance.

- Attachments:
1. Draft Planning Commission Resolution
 2. Applicant Letter
 3. Vicinity Map
 4. Zoning Map
 5. Historical Assessment Report
 6. Mills Act Contract
 7. Rehabilitation / Restoration / Maintenance Plan
 8. State Inventory Form

RESOLUTION NO. PC-2024-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE THE ADDITION OF 208 MAGNOLIA STREET TO THE LOCAL HISTORIC REGISTER PURSUANT TO TITLE 13, ARTICLE 14 (HISTORIC PRESERVATION) OF THE COSTA MESA MUNICIPAL CODE

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA FINDS AND DECLARES AS FOLLOWS:

WHEREAS, an application was filed by the property owner, John Barnett with respect to real property located at 208 Magnolia Street, requesting placement of the subject property to the City's local historic register; and

WHEREAS, a hearing was held by the Planning Commission on January 22, 2024.

NOW, THEREFORE, THE COSTA MESA PLANNING COMMISSION RESOLVES AS FOLLOWS:

1. The project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) ("General Rule") in that there is no possibility that the addition of 208 Magnolia Street to the local historic register will have a significant impact on the environment.
2. The Planning Commission recommends that the City Council approve the request to add 208 Magnolia Street to the City's local historic register based on the evidence in the record and the findings contained in Exhibit A.

PASSED AND ADOPTED this 22nd day of January, 2024.

Adam Ereth, Chair
Costa Mesa Planning Commission

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

I, Scott Drapkin, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. PC-2024- __ was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on January 22, 2024 by the following votes:

AYES: COMMISSIONERS
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Scott Drapkin, Secretary
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS

- A. Pursuant to CMMC Section 13-200.9(2)(b) – “Findings”, in order to designate the subject property on the City’s Historic Register, the City Council upon the recommendation of the Planning Commission must find that:

Finding: The site, building, structure, district, object, natural feature or improvement has special historical, archaeological, cultural, architectural, community value in the City, and that the purpose of the City’s Historic Preservation Ordinance is maintained by such designation.

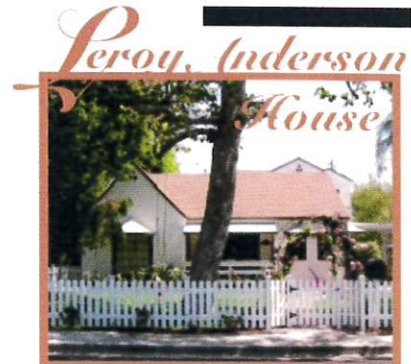
Facts in Support of Finding: The 2023 GPA Historic Assessment Report indicates that the residence located at 208 Magnolia Street has special historical, architectural and community value in that the structure reflects the transitional period of early Costa Mesa residential development during which the former farming community of Harper evolved from an agricultural area to the more densely developed town, and is one of the earliest residences constructed in the Newport Heights Tract during that period. Additionally, the Report indicates that the subject residence has community value in that the house was the long-term residence of Leroy P. Anderson, a prominent local attorney who was instrumental in the early development of Costa Mesa. Further, preservation of this historical residence is consistent with the City’s Historic Preservation Ordinance “Purpose” in that designating the property on the City’s Historic Registry will: (1) further safeguard the City’s heritage as embodied and reflected in the subject property, (2) encourage public knowledge, understanding, and appreciation of the City’s past by fostering civic and neighborhood pride and a sense of identity based on the recognition of a cultural resource, (3) preserve a diverse and harmonious architectural style that reflects the City’s history, and (4) enhance property values and increase economic and financial benefits to the City by protecting a local neighborhood historical resource asset.

Resolution No. PC-2024-__

Home background: Known as the Leroy Anderson Home built in 1927 reflecting the English Revival

This family home is located at 208 Magnolia and was built in 1927. This was the home of Leroy Anderson, a prominent local attorney who was instrumental in the early development of Costa Mesa.

The structure is significant because it is one of only a dozen that reflected the English Revival style in residential design within the City of Costa Mesa. Rear room additions were added to this quality custom home at a later time.



Thank you for your consideration.

John Barnett

208 Magnolia Street, Costa Mesa CA 92627

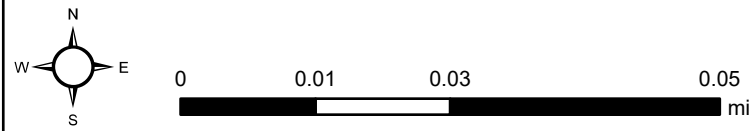
(949) 632 4353

Legend

-  City Limit
-  Addresses
-  Silver



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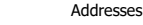

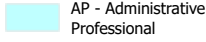
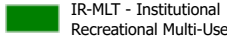
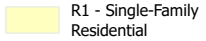
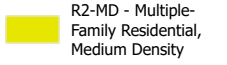
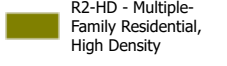
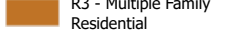

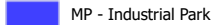
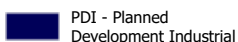


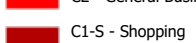
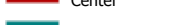

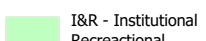
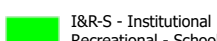

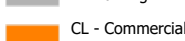


The City of Costa Mesa makes no guarantee as to the accuracy of any of the information provided and assumes no liability for any errors, omissions, or inaccuracies.

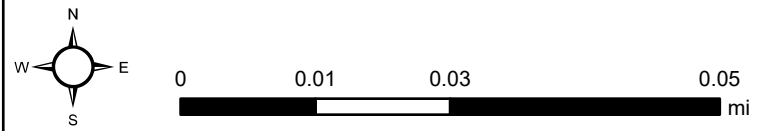
WGS 1984 Web Mercator Auxiliary Sphere
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Legend

-  City Limit
-  Addresses
-  Silver
- Zoning**
-  AP - Administrative Professional
-  IR-MLT - Institutional Recreational Multi-Use
-  R1 - Single-Family Residential
-  R2-MD - Multiple-Family Residential, Medium Density
-  R2-HD - Multiple-Family Residential, High Density
-  R3 - Multiple Family Residential
-  MG - General Industrial
-  MP - Industrial Park
-  PDI - Planned Development Industrial
-  C1 - Local Business
-  C2 - General Business
-  C1-S - Shopping Center
-  TC - Town Center
-  PDR-NCM - Planned Development Residential - North Costa Mesa
-  I&R - Institutional Recreational
-  I&R-S - Institutional Recreational - School
-  P - Parking
-  CL - Commercial Limited

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Historic Assessment Report

Date: April 7, 2023

For: Patrick Achis, Assistant Planner, Development Services Department, City of Costa Mesa

Subject: 208 Magnolia Street, Costa Mesa

From: Audrey von Ahrens, Associate Architectural Historian, GPA Consulting

Introduction

The owner of 208 Magnolia Street (Assessor Parcel Number 425402-02) is interested in applying for the Mills Act program and entering a Mills Act contract with the City of Costa Mesa (City). GPA Consulting (GPA), a qualified historic preservation consultant, was retained by the City to assist with this process.

The Mills Act is a California state law that was enacted in 1972, giving participating local governments the authority to enter formal agreements, generally known as a Historical Property Contract, with owners of “qualified” historic properties. Under this contract agreement, the property owner agrees to protect, preserve, and maintain the property in accordance with specific historic preservation standards and other conditions set forth in the contract in exchange for a property tax reduction. The California Government Code, Article 12, Sections 50280 – 50290 and California Revenue and Taxation Code, Article 1.9, Sections 439 – 439.4 contain the relevant State regulations. A “qualified historical property” is one that is listed in the National Register of Historic Places or located in a registered district, or listed in any local official register (GOV, Article 12, Section 50280.1).



Figure 1: 208 Magnolia Street, view looking north. Source: GPA Consulting, February 2023.

The property at 208 Magnolia Street is not currently listed on any federal, state, or local registers but was identified in the *City of Costa Mesa Citywide Historic Resources Survey* prepared by PCR Services Corporation in 1999 as eligible for local landmark designation. In order to be eligible for a Mills Act Historic Property Contract

as a “qualified historical property,” 208 Magnolia Street must be formally designated as a local landmark and placed on the City’s Local Register of Historic Places (Local Register). The purpose of this Historic Resource Assessment is to accompany the Mills Act Application Form and inform the City’s staff report to the Historic Preservation Committee, Planning Commission, and City Council for the proposed landmark designation of the property.

Audrey von Ahrens, Associate Architectural Historian, was responsible for the preparation of this memo. She fulfills the qualifications of a historic preservation professional outlined in Title 36 of the Code of Federal Regulations, Part 61. Her résumé is included as **Attachment A**.

Methodology

In preparing this report, GPA performed the following tasks:

1. Reviewed existing information provided by the City, including the 1999 Department of Parks and Recreation (DPR) form set, and building permit records.
2. Conducted a site inspection of the property to ascertain the general condition and physical integrity of the property. Digital photographs were taken during this field inspection.
3. Conducted research into the history of the property. Sources referenced included building permit records, city directories, newspaper archives, genealogical databases, and historic maps.
4. Reviewed the *1999 City-Wide Historic Resources Survey* to identify the appropriate contexts for the evaluation.
5. Reviewed and analyzed ordinances, statutes, regulations, bulletins, and technical materials relating to federal, state, and local historic preservation designations, and assessment processes and programs to evaluate the property for significance as a City of Costa Mesa landmark.

Brief Description and History of the Property

Architectural Description

208 Magnolia Street is located on the north side of Magnolia Street between Orange and Westminster avenues in the city of Costa Mesa. The property comprises a one-story single-family residence facing Magnolia Street with a two-story rear addition and garage facing the rear alley. The original one-story portion of the residence is L-shaped in plan and has a steeply sloping cross-gable roof with front gable projection on the southwest corner and has a combination of flush and enclosed, shallow eaves. The roof is clad in composition shingles and the exterior walls are clad in smooth stucco. The elevations are asymmetrically arranged and fenestration consists of a combination of multi-light and single-light casement and double-hung sash windows in various groupings and sizes. They are mostly dual-pane, wood windows. Within the gable peaks are attic vents, each with three circular openings containing red clay vent tubes. Rectangular foundation vents with wire mesh are unevenly spaced across the building base.

The primary (south) elevation is characterized by a slightly recessed main entrance porch located at the center of the elevation and sheltered by the overhanging eave of the roof (see **Figure 2**). The main entrance is located on the west wall within the porch and consists of a replacement wood Dutch door with multi-light upper leaf and single-panel lower leaf. At the center of the porch is a secondary entrance with narrow, partially glazed door and sidelights. The door and sidelights each have four divided lights above a single wood panel. Opposite the main entrance door, on the east wall of the porch, is a single window opening with multi-light wood casement. The porch opening is articulated by a full width standing seam awning with decorative metal fascia and two metal spear supports. The brick porch is slightly elevated and accessed from the east end via brick steps and a walkway leading from the street. A large, multi-light window with half-round, metal standing seam awning and decorative fascia trim is centered beneath the projecting gable on the west end of the elevation. At the east end of the elevation are two multi-light windows, each with similar half-round awnings. The primary elevation overlooks a manicured lawn enclosed by a low wood picket fence. Plant beds line the base of the elevation and a small area

paved with scored concrete, remnants of a former driveway from Magnolia Street, is located within the east portion of the front yard.

The east elevation overlooks a side patio that is enclosed by a high wood fence and sheltered beneath a wood pergola that connects to the elevation (see **Figure 3**). A secondary entrance is on the south end of the elevation with a multi-light wood panel door sheltered by a rectangular, standing seam metal awning with decorative metal fascia and accessed by wood steps. Window openings are evenly spaced across the remainder of the elevation and include a high tripartite window with single-light casements, and a single-light wood sliding sash window. The remainder of the elevation consists of the two-story addition, which projects from the main wall plane of the original residence.

The rear (north) elevation consists of the two-story addition on the east end and four window openings on the west end (see **Figure 4**). The two smaller window openings immediately adjacent the addition are non-original wood casement sash with leaded stained glass. The two larger window openings on the west have one-over-one double-hung sash. The elevation overlooks a rear yard that is enclosed by fencing on north and west, and the two-story addition and garage on the east.

The west elevation has a shallow setback from the adjacent property and has no entrance openings (see **Figure 5**). Six windows are asymmetrically arranged across the elevation. Four single-light casement windows are on the south end of the elevation, organized into groups of two. Toward the north end is a smaller single-light casement and a one-over-one double-hung sash window.



Figure 2. Primary (south) elevation, view looking north. Source: GPA, February 2023.



Figure 3. East elevation, view looking west. Source: GPA, February 2023.



Figure 4: North elevation, view looking south. Source: GPA, February 2023.



Figure 5: West elevation, view looking east. Source: GPA, February 2023.

Construction and Ownership History

The original building permit for the construction of the single-family residence could not be found in the City's records. According to the Orange County Assessor's records, the single-family residence was originally

constructed in 1927;¹ however, the property is not visible in historic aerials from August 1927,² but may have been constructed after the photograph was taken. It is first depicted in a 1931 historic aerial photograph.³ Therefore, the estimate date of construction is circa 1927-1931. The earliest known owners were Maurice and Josephine Nash, owner of a live bait boat company, Prop Sunshine, who resided at the property from at least 1933 to 1934.⁴ In 1935, the property was owned by Everett T., an oil worker, and Florence M. Jones who resided there with tenants Ellard L. Jacka, a mechanic, and his wife Eugenia M.⁵ In 1936, it was owned by retired U.S. Army Master Sergeant Joel W. Rowan and wife and Clara, who lived there with their son, William S. Rowan, and tenanted by a student, William T. Brown.⁶ By October 1936, the property was purchased by Leroy P. Anderson, an attorney, and his wife, Lola F. Anderson, who worked as a secretary.⁷ The Andersons resided at the property until at least 1966.⁸

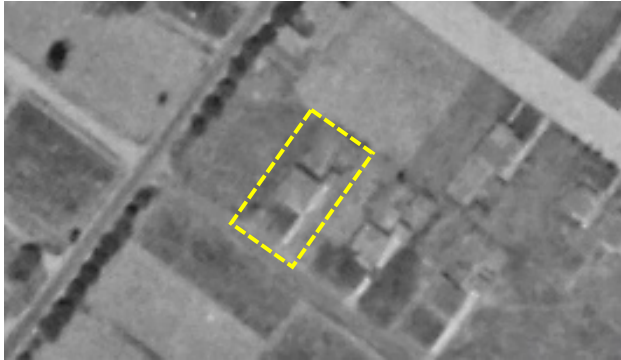


Figure 6. 1931 historic aerial photograph showing driveway and detached garage. Source: UCSB.



Figure 7: Circa 1950 historic photograph showing west elevation. Source: Owner's personal records.

No building permits exist for the property prior to the 1950s. A historic aerial photograph from 1931 depicts a long driveway to the south of the residence that leads from Magnolia Street to a small, detached garage to the rear of the residence (see Figure 6). Also based on historic aerial photographs, between 1938 and 1953 an alley was constructed along the rear of lots fronting Magnolia Street, including the subject property, but driveway access remained at the front of the property from Magnolia Street.⁹ The oldest building permit found dates to 1956 for re-roofing of the residence, still under the ownership of Anderson.¹⁰ Due to the lack of building permits available and other documentary evidence, such as historic photographs, no other alterations that occurred prior to 1956, if any, could be identified. However, it does not appear that many substantial changes were made to the exterior of the residence until the 1990s. In 1997, under the ownership of Christopher Rigandi, a new garage and two-story rear addition were constructed.¹¹ It is unclear if the 1930s garage was demolished at this time or incorporated into the addition. In 2002, the residence was again re-roofed with composition shingles by new owner, Phil Dunn.¹² No other alterations are recorded in the building permit history. In 2022, the current owners replaced all of the windows on the primary (south) elevation with new, dual-pane wood windows as well

¹ Orange County Assessor's Records, accessed via ParcelQuest.

² Geospatial Collection, Flight C-113, Frame 1073, Beginning Date August 1, 1927, UCSB Library, University of California, Santa Barbara, accessed via Frame Finder, https://mil.library.ucsb.edu/ap_indexes/FrameFinder/.

³ Geospatial Collection, Flight C_1590, Frame 32, Beginning Date May 22, 1931, UCSB Library, University of California, Santa Barbara, accessed via Frame Finder, https://mil.library.ucsb.edu/ap_indexes/FrameFinder/.

⁴ Anaheim City Directory, 1933 and 1934.

⁵ Anaheim City Directory, 1935.

⁶ Anaheim City Directory, 1936.

⁷ "Costa Mesa," *Santa Ana Register*, October 9, 1936, 20.

⁸ *California, U.S., Voter Registrations, 1900-1968*, Ancestry.com, accessed March 2023, https://www.ancestry.com/imageviewer/collections/61066/images/orangecounty_57-00918.

⁹ UCSB historic aerial photographs, 1938 and 1953.

¹⁰ City of Costa Mesa Building Permit No. 4119, December 21, 1956.

¹¹ Building Permit No. M083981 and B083979, July 30, 1997.

¹² Building Permit No. B02-00355, March 13, 2002.

as all of the doors within original openings.¹³ Addition alterations, listed below, were identified by observations made during the site visit by GPA in February 2023. As such, the exact dates of these alterations are unknown.

- Installation of wood bench along west edge of main entrance porch and modification of metal spear supports for porch awning to anchor to the bench, rather than the porch floor.
- Demolition of majority of original driveway and curb-cut along Magnolia Street.
- Erection of perimeter fencing along the front and rear of the property.
- Construction of a pergola addition on the east elevation.
- Installation of front brick walkway leading from Magnolia Street to the entrance porch.
- Replacement of all original wood panel interior doors.
- Replacement or original wood flooring with new.
- Kitchen and bathroom remodels.

Local Landmark Eligibility and Significance Summary

The City’s Historic Preservation Ordinance is codified in Title 13, Chapter IX , Article 14 of the Municipal Code. It establishes the City’s Local Register and designation criteria for local landmarks. The city council, upon recommendation of the planning commission, may designate any building, structure, site object, district, improvement, or natural feature that is over fifty (50) years of age, or in special circumstances less than fifty (50) years of age, if it meets the criteria for listing in the National Register of Historic Places or one (1) or more of the criteria listed below:

- a. Exemplifies or reflects special elements of the city’s cultural, social, economic, political, aesthetic, engineering, architectural, or nature history; or
- b. Is identified with persons or events significant in local, state, or national history; or
- c. Embodies distinctive characteristics of a style, type, period, or method of construction; or
- d. Is a valuable example of the use of indigenous materials or craftsmanship; or
- e. Represents the work of a notable builder, designer, or architect; or
- f. Contributes to the significance of an historic area, being a geographically definable area possessing a concentration of historic or scenic properties or thematically related grouping of properties which contribute to each other and are unified aesthetically by plan or physical development; or
- g. Has a unique location or singular physical characteristics or is a view or vista representing an established and familiar visual feature of a neighborhood, community or of the city; or
- h. Embodies elements of architectural design, detail, materials, or craftsmanship that represent a significant structural or architectural achievement or innovation; or
- i. Is similar to other distinctive properties, sites, areas, or objects based on a historic, cultural, or architectural motif; or
- j. Reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning; or
- k. Is a type of building or is associated with a business or use which was once common but is now rare; or
- l. Yields, or may yield, information important in prehistory or history; and retains the integrity of those characteristics necessary to convey its significance.

¹³ 2002 MLS photographs and current owner records.

Previous Determinations and Evaluation Update

208 Magnolia Street was identified in the *City of Costa Mesa Citywide Historic Resources Survey* prepared by PCR Services Corporation in 1999. The property was recorded and evaluated on California Department of Parks and Recreation (DPR) Forms and assigned a California Historical Resource Status Code¹⁴ of 5S1, which the 1999 survey used to denote “Not eligible for the National Register but of local interest because the property is eligible for separate designation under an existing local ordinance.”¹⁵ The Status Codes have since been revised by the California Office of Historic Preservation (OHP), and the most applicable current Status Code is 5S3, which denotes “Appears to be individually eligible for local listing or designation through survey evaluation.”¹⁶

The 1999 evaluation found the property “locally significant for its architecture and its association with an early prominent local citizen, LeRoy Anderson...a prominent local attorney who was instrumental in the early development of Costa Mesa,” and further explains that “the bungalow is one of only a dozen which reflect the Period Revival style in residential design within the City of Costa Mesa... the dwelling reflects the size, scale, massing, plan, and architectural style of its generation in Costa Mesa and is a good example of its property type.”¹⁷ The period of significance was identified as 1927, the date of construction. The 1999 DPR form set is included in **Attachment B**.

Evaluation Update

GPA reviewed the 1999 survey of the property and updated the evaluation to clarify the local criteria under which it is eligible for designation, to elaborate on the areas of significance, and to identify accurate periods of significance under each applicable criterion, as well as provide an analysis of integrity given the substantial length of time since the property was last surveyed and evaluated in 1999, over twenty years ago. Based on the findings from the 1999 survey and additional research conducted as part of this report, the property appears to be eligible for designation as a local landmark under local criteria a and b. The significance of the property under each of these criteria are discussed separately, below.

Criterion a

To be eligible under local criterion a, a property must exemplify or reflect special elements of the city’s cultural, social, economic, political, aesthetic, engineering, architectural, or natural history. The context considered under local criterion a is early residential development in unincorporated Costa Mesa.

The present-day City of Costa Mesa generally formed from the early communities of Fairview on the northwest, Paularino on the northeast, and Harper on the south.¹⁸ 208 Magnolia Street is located in the Newport Heights Tract within the vicinity of the early town of Harper, southeast of Newport Boulevard. The tract was recorded in 1906 as one of the earliest housing tracts in the area (see **Figure 8**). The early development of Harper and the Newport Heights tract is described in the below excerpt from the *Citywide Historic Resources Survey*:

In January 1906, the *Huntington Beach News* announced that 'one of the largest realty deals ever made in Orange County was consummated last week when seventeen hundred acres of the San Joaquin Ranch (owned by James Irvine) were sold to an Investment Company and will immediately be cut up into 5-acre tracts and placed on the market.' Following this announcement, a water distribution system was installed in the mesa.

Parallel with the land development the area experienced its first oil boom which served to promote and expand population. Three oil wells went up in 1906 just south of the present

¹⁴ The evaluation instructions and classification system prescribed by the State California Office of Historic Preservation (SOHP) in its *Instructions for Recording Historical Resources* (1995) provide a Status Code for use in classifying potential historical resources.

¹⁵ PCR Services Corporation, *City of Costa Mesa Citywide Historic Resources Survey* (City of Costa Mesa, July 1999), 29.

¹⁶ “California Historical Resources Status Codes, Current as of 3/1/2020,” accessed April 2023, <https://ohp.parks.ca.gov/pages/1069/files/Resource-Status-Codes.pdf>

¹⁷ PCR Services Corporation, “Department of Parks and Recreation Form Set, 208 Magnolia Street,” June 1, 1999.

¹⁸ Costa Mesa Historical Society, *Images of America: Early Costa Mesa* (San Francisco, CA: Arcadia Publishing, 2009), 2.

Newport Beach Harbor High School location. In the latter part of 1907, several more wells were installed on the northern end of the Newport Heights Tract. The oil boom was short-lived. The oil that had been found turned out to be a thick, sticky substance and thus, very difficult to pump. Within two or three years the old derricks were abandoned. The growth and development of Harper fell back upon land development.¹⁹

In April 1907, the Newport Mesa Tract was filed, just west of the Newport Heights Tract. Over 200 five-acre parcels were sold in the first year.²⁰ At this time, most of the population was centered between Newport Boulevard on the west and Orange Avenue on the east and Seventeenth on the south and Nineteenth Streets on the north. The period from 1906 to 1912 continued to attract new settlers as well as establish potential business opportunities. In 1913, the Fairview Farms Tract was opened, just north of the Newport Heights Tract, and its publicity led to a further increase in population and development activity. The farming community of Harper was renamed in 1920 to Costa Mesa and between 1920 and 1940, the population of Costa Mesa grew from approximately 200 to 4,692.²¹

Although the Newport Heights Tract was established in 1906, as depicted in historical aerial photographs, the area remained relatively sparsely developed through 1927, when the residence at 208 Magnolia may have been constructed (see **Figure 9**). Following the Great Depression in 1929, minimal development of new housing occurred in the vicinity of the Newport Heights Tract (see **Figure 10**).²²

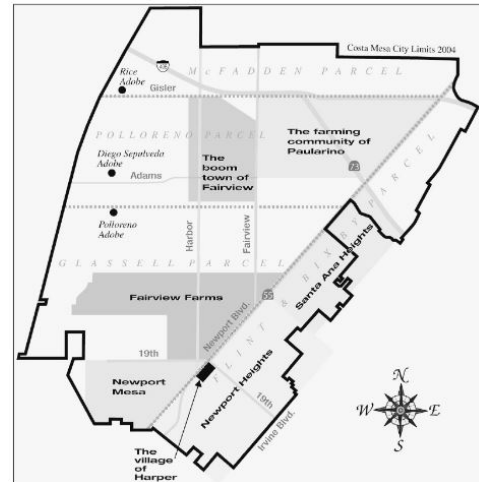


Figure 8. Present-day and early towns of Costa Mesa. Source: *Costa Mesa Historical Society*.



Figure 9. 1927 historic aerial photograph showing the vicinity of the Newport Heights Tract. Source: UCSB.



Figure 10. 1931 historic aerial photograph showing the vicinity of the Newport Heights Tract. Source: UCSB.

As with 208 Magnolia Street, the vast majority of early residences in Costa Mesa were not architect-designed or the work of a developer. Instead, they were vernacular buildings constructed by a local builder/contractor or the homeowner. Typically small, one-story wood frame buildings, they were either clad in clapboard or (later) sheathed in stucco (like 208 Magnolia Street) and had hip or gable roofs and front porches with varying configurations and designs. Though a common type of single-family residence found throughout Southern California from the 1900s through 1940, they still possessed some individuality and were the homes of generations of working- and middle-class citizens.²³ In Costa Mesa, the earliest residences were constructed by

¹⁹ PCR Services Corporation, *City of Costa Mesa Citywide Historic Resources Survey* (City of Costa Mesa, July 1999), 10.

²⁰ *Ibid.*, 10.

²¹ *Ibid.*, 11.

²² *Ibid.*, 12.

²³ *Ibid.*, 17.

farmers on 5- to 10-acre lots, clad in wood and reflected earlier Victorian and Arts and Crafts styles. Residences constructed later in this period, when the farms and orchards began being subdivided to smaller lots for housing development, reflected Period Revival styles. 208 Magnolia Street was constructed as part of this early wave of development, just before the onset of the Great Depression.

The Great Depression continued unabated throughout 1933 and 1934, during which time the branch line of the Southern Pacific Railroad, which ran from Santa Ana to Newport Beach along Newport Boulevard throughout the heart of town, was abandoned.²⁴ Growth resumed in 1940 but Costa Mesa retained the atmosphere of a small town until World War II accelerated growth.²⁵ Construction of the United States Air Corps Replacement Training Center began in 1941 and opened in 1942 as the Santa Ana Army Air Base (SAAAB), and eventually reached the size of 1,283 acres west from Newport Boulevard to Harbor Boulevard, south from Warehouse Road to the present Vanguard University.²⁶ SAAAB brought an increase in population in Costa Mesa and continued residential development in the Newport Heights Tract, which was largely built out by 1947 (see **Figure 11**). A few years later, with an area of 3.5 square miles and a population of 16,185, the City of Costa Mesa incorporated on June 29, 1953.²⁷ By the end of the 1950s, Newport Heights as well as the other oldest housing tracts were fully developed (see **Figure 12**); thus, the City expanded outward with new housing tracts developed throughout the postwar period.



Figure 11: 1947 historic aerial photograph showing the vicinity of the Newport Heights Tract. Source: UCSB.



Figure 12: 1958 historic aerial photograph showing the vicinity of the Newport Heights Tract. Source: UCSB.

208 Magnolia reflects the transitional period of early residential development which began in the 1920s as the former farming community of Harper evolved from an agricultural area developed with 5- and 10-acre farmsteads to a more densely developed town of Costa Mesa. 208 Magnolia is one of the earliest residences constructed in the Newport Heights Tract from this period. At such, it is eligible for listing as a landmark under local criterion a.

Criterion b

To be eligible under local criterion b, a property must be identified with persons or events significant in local, state, or national history. 208 Magnolia Street underwent frequent changes in ownership in the first decade after it was constructed with at least three different owners between 1933 and 1936²⁸ (see **Construction and Ownership History starting on page 3** for more detail). However, the fourth known owners, Leroy P. and Lola F. Anderson resided at the property for a substantial period, during which time Leroy was a particularly influential member of the community.

²⁴ Ibid., 13.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid., 15.

²⁸ Anaheim City Directory, various dates.

Leroy Plummer Anderson (1889-1957) was born in 1898 to farmers Joseph and Mary J. and grew up working on the family farm in Richland, Kansas.²⁹ Anderson served in World War I in 1919 and in 1920, at the age of 21, lived with his sister, Bessie, and her husband John Reed, in Portland, Oregon³⁰ where he attended the University of Oregon and received his degree of Bachelor of Law in 1922.³¹ In 1926, he married Lola Fern Chenoweth (1898- 1983) from Walla Walla, Washington.³² They relocated to the vicinity of Costa Mesa by 1927 when they purchased a homesite.³³ Despite having purchased land, the Andersons rented a home at 859 Fairview Avenue in Newport Beach in 1930 while Anderson established his own law firm and Lola worked as a stenographer at City Hall.³⁴ They moved into the property at 208 Magnolia Street in 1936 where they resided together until Anderson passed away in August of 1957,³⁵ after which Lola retained ownership of the property and lived there until at least 1966.³⁶ The Andersons, both Leroy and Lola, were active in the community of Costa Mesa as members of the Costa Mesa Lions Club throughout their residency. In addition, Leroy Anderson was an active member of the board of the Newport Beach Exchange Club. He became director of the Costa Mesa Chamber of Commerce and harbor district attorney by 1930.³⁷



Figure 13. 1927 photograph showing the Lions Club members. Source: *Early Costa Mesa*.



Figure 14: 1928 Chamber of Commerce, Anderson at bottom right. Source: *Early Costa Mesa*.

In his first few years in Costa Mesa, Anderson was a key leader of the Newport Beach and Costa Mesa communities in their fight to secede from the Santa Ana high school district.³⁸ After losing the suit at the superior court in 1928, Anderson represented the chamber of commerce and Costa Mesa district, of which he was a part, at the higher court proceedings in Sacramento in the attempt gain state legislation to separate the elementary school districts from the city high school districts for Costa Mesa and Newport Beach. As a result of Anderson's efforts, the Newport Harbor-Costa Mesa high school bill permitted the organization of a Harbor high school district, separate from the Santa Ana high school district in 1929.³⁹ By the end of that year, a site for the

²⁹ 1900 *United States Federal Census*, Ancestry.com, accessed March 2023, https://www.ancestry.com/imageviewer/collections/7602/images/4120145_00481.

³⁰ 1920 *United States Federal Census*, Ancestry.com, accessed March 2023, https://www.ancestry.com/imageviewer/collections/6061/images/4384923_00314.

³¹ *The University of Oregon, Catalogue, 1922-1923, Announcements, 1923-1924*, (Eugene, OR: The University Press, 1924), 207, accessed online March 2023, file:///C:/Users/audrey/Downloads/UOCAT_1923-24_Anno.pdf.

³² *California, U.S., Death Index, 1940-1997, Place: Orange; Date: 13 Sep 1983; Social Security: 568244126*, Ancestry.com, accessed March 2023. 1930 *United States Federal Census*.

³³ "Realty Sales at Costa Mesa Total \$50,000," *Santa Ana Register*, January 31, 1927, 15.

³⁴ 1930 *United States Federal Census*.

³⁵ *California, U.S., Death Index, 1940-1997, Place: Orange; Date: 19 Aug 1957; Social Security: 571229151*, Ancestry.com, accessed March 2023.

³⁶ "Costa Mesa," *Santa Ana Register*, October 9, 1936, 20. *California, U.S., Voter Registrations, 1900-1968*.

³⁷ "Plan Meeting of Mesa, Beach Organizations," *Santa Ana Register*, June 11, 1930, 8.

³⁸ "Newport Fails in Fight for High School," *Santa Ana Register*, March 4, 1928, 6.

³⁹ "Rural School Merger Bill Meets Defeat," *Santa Ana Register*, March 21, 1929, 3.

construction of the new Newport Harbor Union High School was identified and the need for a new high school board was established.⁴⁰ Anderson was elected as the first president and chairman of the new high school board in 1930.⁴¹ In January of 1931, he announced the completion of the Newport Harbor Union High School at the dedication ceremony as president of the high school board and trustees.⁴² Anderson did not run for re-election in 1932 but remained a charter member of the school board.⁴³ In 1932, Anderson became president of the Harbor Service Club.⁴⁴ He was also a member of American Legion Post No. 455 by 1937⁴⁵ and helped establish the Costa Mesa Improvement Association and served as charter member of the newly formed organization in 1938.⁴⁶ He was appointed chairman of the advisory board of Newport Beach Selective Service Board 171 in 1941.⁴⁷

As an unincorporated community, Costa Mesa was governed by county supervisors, headquartered in Santa Ana. Much-needed local leadership emerged through special districts and organizations such as school boards, water boards, the Costa Mesa Chamber of Commerce, Women’s Club, and Lions Club. While organizations such as these were common across Southern California at the time, they were particularly important in the history of Costa Mesa, which was formed much later than other neighboring cities and remained unincorporated until the 1950s. As such, these organizations and the individuals, such as Leroy P. Anderson, that helped establish and lead them, were particularly influential in forming the identity of Costa Mesa, developing a tradition of local governance and ultimately laying the groundwork for home rule and future incorporation.⁴⁸

For all of the reasons detailed above, Leroy P. Anderson would be considered a significant individual in the history of Costa Mesa and 208 Magnolia, as the long-term residence of the Anderson’s, is eligible for listing as a landmark under local criterion b.

Summary

208 Magnolia Street appears to be eligible for landmark designation under local criterion a because it reflects the transitional period of early residential development during which the former farming community of Harper evolved from an agricultural area to a more densely developed town of Costa Mesa and is one of the earliest residences constructed in the Newport Heights Tract during that period. The period of significance under criterion a is 1927, the date of construction. The property also appears to be eligible under criterion b as the long-term residence of Leroy P. Anderson, a prominent local attorney who was instrumental in the early development of Costa Mesa. The period of significance under criterion b is 1936 to 1957, encompassing the period of time during which Anderson resided at the property.

Character-Defining Features

Character-defining features are the architectural components that contribute to a building's sense of time and place. Character-defining features can be generally grouped into three categories: the overall visual character of a building, the exterior materials and craftsmanship, and the interior spaces, features, and finishes. The relative importance of character-defining features depends on the level of craftsmanship, visibility, and integrity. In addition, some character-defining features are more important than others in conveying the significance of the building. The character-defining features identified below are considered the most important elements contributing to the significance of the property, and generally include features that date from the period of significance, directly relate to the original use, type, and style, display craftsmanship, are highly visible, and retain integrity.

⁴⁰ “Exchange Club Wants Large School Plant,” *Santa Ana Register*, September 26, 1929, 16.

⁴¹ “Plan Meeting of Mesa, Beach Organizations,” *Santa Ana Register*, June 11, 1930, 8.

⁴² “J.P. Greeley is Chairman of Ceremony,” *Santa Ana Register*, January 11, 1931, 3.

⁴³ “5 Candidates File in Mesa School Race,” *Santa Ana Register*, Mar 17, 1932, 9.

⁴⁴ “Attorney Talks on Olympic Games,” *Santa Ana Register*, June 23, 1932, 15.

⁴⁵ “Post No. 455 Installs Offices,” *Santa Ana Register*, Jul 17, 1937, 7.

⁴⁶ “100 Sign Up for New Costa Mesa Improvement Association,” *Santa Ana Journal*, vol. 4, no. 165, November 9, 1938, 4.

⁴⁷ “Daily Happenings,” *Santa Ana Register*, August 29, 1941, 3.

⁴⁸ Costa Mesa Historical Society, 8.

Overall Visual Character

- Location within the Newport Heights Tract
- Front yard (south) setback from Magnolia Street
- One-story building height
- L-shape floor plan
- Cross-gabled roof
- Flush eaves
- Asymmetrically arranged elevations
- Trabeated (flat-headed) window and door openings
- Recessed main entrance porch centered on primary (west) elevation

Materials and Craftsmanship

- Stucco cladding with smooth texture finish
- Terracotta attic tube vents
- Multi-light wood windows and doors
- Metal standing seam window awnings with decorative fascia
- Metal standing seam awning with decorative fascia and spear supports over main entrance porch
- Plaster interior walls and ceilings
- Interior arched openings
- Coved ceilings
- Brick fireplace mantel and hearth

Integrity Analysis

It is standard practice to assess a property’s integrity as part of a historic evaluation. Integrity is a property’s ability to convey its historic significance through its physical features. National Register Bulletin #15 defines seven aspects of integrity: Location, design, setting, materials, workmanship, feeling, and association. In order to convey significance, a property must retain some combination of these aspects of integrity from its period of significance. The aspects of integrity that are essential vary depending on the significance of the resource.

Location: The place where the historic property was constructed or the place where the historic event occurred.

The property retains integrity of location as the property has not been moved since it was constructed in 1927.

Design: The combination of elements that create the form, plan, space, structure, and style of the property.

The property retains integrity of design. Despite the demolition of the original detached garage and construction of the two-story rear addition, the design of the original portion of the residence remains evident. Design features of the building, including its original roof form, scale, horizontal massing, and L-shaped plan are all intact, such as the cross-gabled roof, asymmetrical elevations, flush eaves smooth stucco cladding with red clay tube vents at the gable peaks. Although many of the original windows and doors have been replaced, the original openings remain and the replacement doors and windows are generally compatible wood replacements. Thus, the property retains sufficient integrity of design overall. It is likely that the metal awnings on the primary elevation were added in the 1950s within the period of significance identified under criterion b, when Leroy P. Anderson resided at the property. Thus, this design alteration has gained significance in its own right under criterion b and contributes to its integrity of design.

Setting: The physical environment of a historic property.

The integrity of setting has been retained. Although few of the surrounding lots were developed with single-family residences when the 208 Magnolia Street was initially constructed in 1927, subsequent development has not diminished its integrity of setting, particular because the property is significant as an early example of the transition from an agricultural area to the densely developed residential neighborhood that exists today. The surrounding properties are mostly one and two-story single-family residences constructed in the 1930s to 1940s. Some contemporary infill development has occurred along the street but it is compatible in scale and does not negatively affect the integrity of broad setting. The immediate setting has been diminished by the loss of the detached garage and driveway entrance from Magnolia Street, and construction of the rear addition, but retains sufficient integrity overall to convey its significance.

Materials: The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.

Integrity of materials has been diminished by the replacement of original materials over time, such as original wood windows and doors and roof cladding. As a simple, vernacular residence, integrity of materials is not particularly important in conveying its significance as it was not identified as significant for its architecture.

Workmanship: The physical evidence or the crafts of a particular culture or people during any given period in history or prehistory.

Similar to the analysis of integrity of materials, above, as a simple, vernacular residence, the property does not possess examples of fine craftsmanship and thus integrity of workmanship is not particularly important in conveying its significance.

Feeling: A property's expression of the aesthetic or historic sense of a particular period of time.

The property retains integrity of feeling through the combination of its intact location, design, setting, and materials that evoke the sense of a late 1920s, vernacular single-family residence.

Association: The direct link between an important historic event or person and a historic property.

The integrity of association is intact, as the property retains sufficient physical integrity to convey its significance under criteria a and b.

Conclusions

208 Magnolia Street appears to be eligible for landmark designation under local criteria a and b for its ability to reflect the historical trend of early residential development in Costa Mesa and for its association with a locally significant individual, Leroy P. Anderson. The period of significance under criterion a is 1927, the date of construction. Under criterion b, the period of significance is 1936 to 1957, encompassing the period of time during which Anderson resided at the property. 208 Magnolia retains integrity of location, design, setting, feeling, and association, and therefore has sufficient physical integrity to convey its historical significance. As such, 208 Magnolia Street is eligible for inclusion in the Costa Mesa Register as local landmark as it is over 50 years of age, meets criteria a and b, and retains integrity to convey its significance.

Sources

"100 Sign Up for New Costa Mesa Improvement Association." *Santa Ana Journal*. Vol. 4. No. 165. November 9, 1938.

Anaheim City Directory. Various Dates.

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California State Office of Historic Preservation, Department of Parks & Recreation. "Technical Assistance Bulletin #8: User's Guide to the California Historical Resource Status Codes & Historic Resources Inventory Directory." Accessed March 2023. <http://ohp.parks.ca.gov/pages/1069/files/tab8.pdf>.

City of Costa Mesa. Building Permits. Various Dates.

Costa Mesa Historical Society. *Images of America: Early Costa Mesa*. San Francisco, CA: Arcadia Publishing, 2009.

"National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation." National Park Service, Cultural Resources. Edited by Patrick Andrus and Rebecca Shrimpton. Accessed March 2023. <https://www.nps.gov/nr/publications/bulletins/nrb15/>.

Orange County Assessor's Records.



PCR Services Corporation. *City of Costa Mesa Citywide Historic Resources Survey*. City of Costa Mesa, July 1999.

PCR Services Corporation. "Department of Parks and Recreation Form Set, 208 Magnolia Street." June 1, 1999.

Santa Ana Register. Various Dates.

The University of Oregon, Catalogue, 1922-1923, Announcements, 1923-1924. Eugene, OR: The University Press, 1924. Accessed Online March 2023. file:///C:/Users/audrey/Downloads/UOCAT_1923-24_Anno.pdf.

Attachments

Attachment A: Résumés

Attachment B: DPR Form Set

Attachment A: Résumés

AUDREY VON AHRENS



Audrey von Ahrens is an Associate Architectural Historian at GPA. She has been involved in the field of historic preservation since 2013. Audrey graduated from the University of Pennsylvania with a Master of Science in Historic Preservation and City Planning where she focused on preservation planning and community economic development. She has since worked in private historic preservation consulting in California. Audrey joined GPA in 2017 and her experience has included the preparation of environmental compliance documents in accordance with the California Environmental Quality Act and Section 106 of the National Historic Preservation Act; historic context statements; Secretary of the Interior's Standards analysis; large-scale historic resources surveys; and evaluations of eligibility for a wide variety of projects and property types throughout Southern California. Audrey is also experienced in coordinating with property owners and local governments in the preparation and review of Mills Act Property Contract applications and the inspection and reporting of properties applying for or with existing contracts.

Educational Background:

- M.S., Historic Preservation, University of Pennsylvania, 2016
- Master of City Planning, University of Pennsylvania, 2016
- B.A., Architectural Studies and B.A., Urban Studies University of Pittsburgh, 2013

Professional Experience:

- GPA Consulting, Associate Architectural Historian, 2017-Present
- Heritage Consulting, Inc., Intern, 2015-2016
- Tacony Community Development Corp., Intern, 2014
- Pittsburgh History & Landmarks Foundation, Intern, 2013
- University of Pittsburgh, Teaching Assistant, 2012-2013
- Pittsburgh Planning Department, Intern, 2012
- Pittsburgh Downtown Partnership, Intern, 2011

Qualifications:

- Meets the Secretary of the Interior's Professional Qualification Standards for history and architectural history pursuant to the Code of Federal Regulations, 36 CFR Part 61, Appendix A.

Professional Activities:

- Downtown Los Angeles Neighborhood Council, Planning and Land Use Committee, 2018-present

Selected Projects:

- 328 N. Oakhurst Drive, Beverly Hills, CEQA Historical Resources Report, 2020
- 1360 Vine Street, City of Los Angeles, CEQA Historical Resources Technical Report, 2020-2021
- 1475 E. El Segundo Boulevard, El Segundo, CEQA Historical Resources Report, 2020
- 4080 Lafayette Place, Culver City, CEQA Historical Resources Technical Report, 2020
- Architecture & Engineering Context, Los Angeles Citywide Historic Context Statement, 2019
- Casa de Rosas, Federal Rehabilitation Tax Credit, 2017-2022
- CF Braun & Company Plant, Alhambra, CEQA Historical Resource Report, 2018
- Los Angeles Mills Act Program, Pre-contract Services and Periodic Inspections, 2017-2023
- Laguna Beach Mills Act Program, Application Reports, 2017-2022
- North Beach Historic District, San Clemente, National Register Nomination, 2021
- WM Keck Science Center, Scripps College, Claremont, Secretary of the Interior's Standards Compliance, 2018-2020
- West Covina Historic Resources Survey and Context Statement Update, 2018-2019
- Whittier Public Library, Construction Monitoring, 2021-2023

Attachment B: DPR Form Set

DRAFT

Primary # _____
 HRI # _____
 Trinomial _____
 NRHP Status Code 5S1

Other Listings
 Review Code _____ Reviewer _____ Date _____

Page of Resource Name or #: (Assigned by recorder) 208 Magnolia Street

P1. Other Identifier: Leroy Anderson's House
 P2. Location: Not for Publication Unrestricted a. County Orange County
 and (P2b and P2c or P2d. Attach a Location Map as necessary.)
 b. USGS 7.5' Quad _____ Date _____ T _____ ; R _____ ; 1/4 of _____ 1/4 of Sec _____ ;
 c. Address: 208 Magnolia Street City Costa Mesa Zip _____
 d. UTM: (Give more than one for large and/linear resources) _____ ; _____ mE _____ mN
 e. Other Location Data (Enter Parcel #, legal description, directions to resource, elevation, etc., as appropriate)

Parcel No. 425-402-02

P3. Description (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)
A steep, cross-gable roof and stuccoed exterior identify the Period Revival (English) influence in the design of this one-story bungalow. The residence has a L-shaped plan with a front facing gable wing projecting out from the west side of the primary (south) elevation. Beneath the front gable are a pair of large, multi-pane casement windows and three circular vent openings. Smaller, multi-pane windows punctuate the east half of the primary elevation. Canvas awnings hang over all the window openings. the property lot is lushly landscaped and is enclosed by a white picket fence.

P3b. Resource Attributes: (List attributes and codes) HP2 - Single Family Property

P4. Resources Present Building Structure Object Site District Element of District Other (Isolates, etc.)

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects)

P5b. Description of Photo: (View, date, accession #)
 (View toward north). Photo No: 10-8, 1/1/99



P6. Date Constructed/Age and Sources:
 Prehistoric Historic Both
1927

P7. Owner and Address
Private

P8. Recorded by: (Name, affiliation, and address)
PCR Services Corporation, 233 Wilshire Blvd., S
 130, Santa Monica, CA

P9. Date Recorded: 7/1/99

P10. Survey Type: (Describe)
City-wide Survey

P11. Report Citation: (Cite survey report and other sources, or enter "none")

Attachments NONE Continuation Sheet District Record Rock Art Record Other: (List)
 Location Map Building, Structure, and Object Record Linear Feature Record Artifact Record
 Sketch Map Archaeological Record Milling Station Record Photograph Record

BUILDING, STRUCTURE, AND OBJECT RECORD

Page of

NRHP Status Code

5S1

Resource Name or #: (Assigned by recorder) 208 Magnolia Street

B1. Historic Name: Leroy Anderson's House

B2. Common Name: Leroy Anderson's House

B3. Original Use: Residential

B4. Present Use: Residential

B5. Architectural Style: Period Revival (English)

B6. Construction History: (Construction date, alterations, and date of alterations)

Built: 1927

B7. Moved? No Yes Unknown Date:

Original Location:

B8. Related Features:

B9a. Architect: Unknown

b. Builder: Unknown

B10. Significance: Theme: Residential Development

Area: Costa Mesa

Period of Significance: 1927

Property Type: Residential

Applicable Criteria: N/A

(Discuss importance in terms of historical or architectural context as defined by theme, period and geographic scope. Also address integrity.)

This property appears ineligible for the National Register. The bungalow is one of only a dozen which reflect the Period Revival style in residential design within the City of Costa Mesa. The building is locally significant for its architecture and its association with an early prominent local citizen, LeRoy Anderson. The dwelling reflects the size, scale, massing, plan, and architectural style of its generation in Costa Mesa and is a good example of its property type. This house was built in 1927, for LeRoy Anderson, a prominent local attorney who was instrumental in the early development of Costa Mesa.

B11. Additional Resource Attributes: (List attributes and codes) HP2 - Single Family Property

B12. References:

A Slice of Orange; Costa Mesa City Directories; Sanborn Maps;
Orange County Assessor's Records; Costa Mesa Historical Society;
Los Angeles Public Library

(Sketch Map with north arrow required.)

B13. Remarks:

B14. Evaluator: Jan Ostashay

Date of Evaluation: 7/1/99

(This space reserved for official comments.)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Costa Mesa City Hall
Attn: Economic and Development Services Department
77 Fair Drive, 2nd Floor
Costa Mesa, CA 92626

(SPACE ABOVE THIS LINE IS FOR RECORDER'S USE)

Exempt from SB2 fee per Government Code 27388.1(a)(1)(2)(D))

HISTORICAL PROPERTY PRESERVATION AGREEMENT (Mills Act Contract)

BY AND BETWEEN THE CITY OF COSTA MESA,
A MUNICIPAL CORPORATION, AND

(PRINT NAME OF EACH OWNER AS LISTED ON TITLE)

FOR THE PRESERVATION AND BENEFIT OF THE
HISTORIC PROPERTY LOCATED AT

(ADDRESS)

THIS HISTORIC PROPERTY PRESERVATION AGREEMENT (the "Agreement") is made and entered into as of this _____ day of _____, _____ (herein referred to as the "Effective Date"), by and between by the CITY OF COSTA MESA ("City"), and _____ (referred to herein as the "Owner"). City and Owner are each a "party" and collectively the "parties" to this Agreement.

RECITALS

- (i) WHEREAS, the Mills Act (Government Code Section 50280 et seq.) authorize cities to enter into Agreements with the owners of Qualified Historical Properties to provide for the use, maintenance and restoration of such historical properties so as to retain their characteristics as properties of historical significance; and
- (ii) WHEREAS, the City Council of the City of Costa Mesa (hereinafter "City Council") has approved by resolution the use of such Agreements as an incentive to support the preservation, maintenance, and appropriate rehabilitation of the City's cultural resources; and
- (iii) WHEREAS, the property that is subject to this Agreement satisfies the requirements under Government Code Section 50280.1 as a Qualified Historical Property in that it is privately owned property which is not exempt from property taxation and is either: individually designated or located within a designated district which is listed on the National Register of Historic Places, California Register of Historical Resources, California Historical Landmarks, California Points of Historical Interest, or on the Local Register of Historic Places;

- a. Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the _____ and located at the street address _____, Costa Mesa, California _____ (hereinafter such property shall be referred to as the "Property"), and recorded with the Orange County Clerk-Recorder with the following legal description: _____
 - b. On _____, ____: (a) the City Council declared the Property a designated cultural resource pursuant to Title 13, Chapter IX , Article 14 of the City's Municipal Code and is thus listed in the Local Register of Historic Places.
- (iv) WHEREAS, City and Owner, for their mutual benefits, now desire to enter into this Agreement to prevent inappropriate alterations, to protect, preserve, and maintain the characteristics of historical significance of the Property in an exemplary manner, and to carry out the purposes of California Government Code, Chapter 1, Part 5 of Division 1 of Title 5, Article 12, Sec. 50280 et seq., and to qualify for an assessment of valuation pursuant to Article 1.9, Sec. 439 et seq., Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code.

NOW, THEREFORE, based on the above recitals and the mutual promises and covenants contained herein, the parties agree as follows:

AGREEMENT

1. AGREEMENT SUBJECT TO GOVERNMENT CODE SECTIONS 50280-50290.

This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes. To the extent any of the provisions in this Agreement are inconsistent with the pertinent provisions of the Government and Revenue and Taxation Code, they are superseded by those Code Sections.

2. ASSESSMENT OF VALUATION.

Property tax relief afforded to Owner pursuant to Chapter 3, Part 2 of Division 1 of the California Revenue and Taxation Code will be determined solely by the Orange County Assessor. City makes no representations regarding the actual tax savings any person may realize by entering into this Agreement.

3. COMMENCEMENT, TERM AND RENEWAL OF AGREEMENT.

- A. EFFECTIVE DATE. This Agreement shall be effective and commence on the date it is recorded as first above written (hereinafter referred to as the "Effective Date").
- B. TERM. The Agreement shall remain in effect for a term ten (10) years from the effective date unless canceled as provided in Section 8 of this Agreement.
- C. AUTOMATIC RENEWAL. On the ten year anniversary of the effective date of this Agreement hereinafter referred to as the "Renewal Date"), and each year thereafter, one year shall be added to the term of this Agreement such that the initial term shall automatically be extended for one additional year after the initial 10-year term unless written notice of nonrenewal is given as provided in Section 9 of this Agreement.

4. CONDITIONS, REQUIREMENTS AND AGREEMENTS FOR THE PROPERTY.

During the term of this Agreement, the Property shall be subject to the following conditions, requirements and agreements.

- a. Owner agrees to preserve and maintain the Property and its character defining features. Character defining features include, but are not necessarily limited to, the general architectural form, style,

materials, design, scale, details, mass, roof line and other aspects of the appearance of the exterior of the Property.

- b. The *Secretary of the Interior's Standards for Rehabilitation* (the "Secretary's Standards") (Exhibit A) and City's minimum maintenance standards (Exhibit B), both attached hereto and incorporated herein by reference, shall constitute the minimum standards and conditions for preservation, restoration, and rehabilitation of the Property, and shall apply to the Property throughout the term of this Agreement. Owner shall, where necessary, restore and rehabilitate the Property to conform to the current rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, the Secretary's Standards, and the City's minimum maintenance standards. Owner shall utilize the State Historical Building Code when rehabilitating the Property.
- c. As consideration for the City to enter into this Agreement, the Owner agrees, at its own cost and expense, to complete, or cause to be completed, the work or improvements described in with the Rehabilitation/Restoration/Maintenance Plan for the Property (Exhibit C), attached hereto and incorporated herein by reference, within the times established in Exhibit C. The Owner shall secure any and all permits which may be required by the City or any other governmental agency affected by the construction of the work or improvements. The Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit C and the contract or contracts pertaining thereto. The Owner will neither seek to hold nor hold the City liable for, and will hold the City harmless with respect to, any consequences of any failure by the Owner to correctly determine the applicability of any such requirements to any contract he/she/they enter into.
- d. Owner shall maintain during the life of this Agreement a homeowners insurance policy in a minimum amount of x, which policy shall name the City as an additional insured.

5. PERIODIC EXAMINATION OF PROPERTY.

Owner agrees to allow the periodic examination, by prior appointment, of the interior and exterior of the premises of the Property by representatives of the City, the Orange County Assessor, the State Department of Parks and Recreation, and the State Board of Equalization, or their designees, as necessary to determine Owner's compliance with the terms of this Agreement. Refusal to allow such inspection shall be grounds for cancellation of this Agreement.

6. PAYMENT OF FEES.

Owner agrees to pay any such fees associated with the administration of the Agreement to be established by the City and may be revised from time to time, so long as the fee does not exceed the City's and County's reasonable cost of providing the service pursuant to this article for which the fee is charged. Fees may include but are not limited to an inspection fee for each required inspection of the Property for the purpose of covering the reasonable cost of performing required periodic inspections.

7. FURNISHING OF INFORMATION OF COMPLIANCE.

Owner hereby agrees to furnish the City with any and all information requested by the City which may be necessary or advisable to determine Owner's compliance with the terms and provisions of this Agreement.

8. CANCELLATION OF AGREEMENT.

- A. CANCELATION BY CITY. City may cancel and/or terminate this Agreement if City determines Owner has breached any of the terms, conditions and/or covenants of this Agreement or has allowed the Property to deteriorate to the point that it no longer meets the standards for a Qualified Historical Property per Government Code Section 50280.1 or if the City determines that the Owner has failed to maintain,

restore or rehabilitate the Property in accordance with the terms, standards and conditions set forth in Exhibit C or any other manner specified in this Agreement.

- i. NOTICE OF CANCELLATION. This Agreement cannot be canceled until after the City has given notice and has held a public hearing as required by Government Code Section 50285. City shall serve written notice of proposed cancellation on Owner stating the grounds for cancellation and setting a public hearing date on the matter. Notice of the hearing shall also be sent by registered or certified mail to the address stated in this Agreement, the last known address of each owner of the Qualified Historical Property and shall be published pursuant to Government Code Section 6061.
 - ii. CANCELLATION FEE. If the City cancels this Agreement in accordance with this Section, the Owner shall pay the State of California a cancellation fee of twelve and one-half percent (12 ½%) of the current fair market value of the Property at the time of cancellation as determined by the County Assessor without regard to any restrictions on the Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the County Auditor shall prescribe.
- B. CANCELLATION BY CITY AT OWNER REQUEST. City may also cancel this Agreement, at Owner's request, if the Property has been destroyed in whole or in part by fire, earthquake, or other Act of God or accidental cause such that, in the sole opinion of the City, the historic value of the Property has been destroyed. The City may cancel this Agreement, at the Owner's request, if the Property is damaged to the extent that (1) the then fair market value of the structure is reduced by 51 percent or more; or (2) 51 percent or more of the structure's floor area is destroyed or irreparably damaged; or (3) 51 percent or more of the structure's historic features are destroyed or irreparably damaged; or (4) the cost to the Owner (exclusive of insurance proceeds) to restore the structure to its prior condition would exceed X percent of the property value. Under these circumstances, no cancellation fee shall be imposed upon the Owner. However, the Owner shall reimburse the City for all expenses incurred by City in determining the extent of damage or destruction. If the Owner desires to cancel this Agreement under this Section, written notice shall be given to the City within 90 days after such damage or destruction occurs. In the event the Owner desires to cancel this Agreement due to the circumstances outlined above, owner or City may request a hearing before the City Council to determine (a) the extent of diminution of value, (b) the extent of the damage or destruction to the floor area of the Property, and/or (c) the extent of damage or destruction to the character defining features of the Property.
- C. CANCELLATION OF CONTRACT DUE TO ACQUISITION OF PROPERTY BY EMINENT DOMAIN; INAPPLICABILITY TO DETERMINATION OF VALUE. In the event that the Property is acquired in whole or part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City to frustrate the purpose of the Agreement, the Agreement shall be cancelled, and no fee shall be imposed under Section 9(A)(ii), above. The Agreement shall be deemed null and void for all purposes of determining the value of the Property so acquired. If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency, the restrictions on the use of the Property included in this Agreement shall, without further agreement of the parties, be reinstated and the terms of this Agreement shall continue in full force and effect.

9. NOTICE AND EFFECT OF NONRENEWAL.

If Owner or City desires in any year not to renew this Agreement, such party shall serve written notice of nonrenewal on the other party in advance of the annual renewal date.

- A. If served by Owner, notice of nonrenewal must be served on City at least ninety (90) days prior to the annual renewal date. If served by City, notice of renewal must be served on Owner at least sixty (60) days prior to the annual renewal date. Failure to meet the notice deadlines above will result in one year being automatically added to the term of this Agreement.

- B. Within fifteen (15) calendar days of the date of the City's notice of nonrenewal, Owner may make a written protest to the City. Upon timely receipt of such protest, the City Council shall hold a public hearing on the matter prior to the annual renewal date. At such hearing, Owner may present any information which Owner deems relevant. Based on Owner's protest and the information presented at the hearing, the City Council may withdraw the City's notice of nonrenewal at any time prior to the annual renewal date.
- C. Any notice of nonrenewal which has not been withdrawn prior to the next annual renewal date, shall be recorded with the Orange County Recorder. Unless this Agreement is otherwise canceled as provided herein, after notice of nonrenewal has been served and not withdrawn, this Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

10. BINDING EFFECT OF AGREEMENT.

The Owner hereby voluntarily subjects the Property hereto to the conditions, requirements and agreements as set forth in this Agreement. City and Owner hereby declare their specific intent that the conditions, requirements and agreements as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the conditions, requirements and agreements expressed in this Agreement whether or not such conditions, requirements and agreements are set forth in any other contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the conditions, requirements and agreements set forth herein may burden the Property that the Owner holds legal interest and may therefore render the land less valuable. The City and Owner hereby further declare their understanding and intent that the benefit of such conditions, requirements and agreements touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Property for the benefit of the public and Owner.

- A. **SUCCESSORS AND ASSIGNS.** This Agreement is binding upon and shall inure to the benefit of all successors in interest of the Owner. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.
- B. **REQUIREMENTS RELATED TO TRANSFER OF PROPERTY.** In the event of any sale, transfer, assignment or conveyance of the Property (herein referred to as a "Transfer"), the Owner agrees that, at least thirty (30) days prior to such Transfer, it shall give written notice to the City of such proposed Transfer, including the name(s) of the transferee(s). In addition, the Owner and the proposed transferee(s) shall enter into and deliver to the City through the escrow for the Transfer of the Property an assignment and assumption agreement in a form satisfactory to the City's Attorney or such other evidence as may be satisfactory to the City that the transferee(s) has (have) assumed the Owner's obligations set forth in this Agreement. Upon the Transfer of the Property and the assumption of the obligations hereunder by the transferee(s), the Owner's liability for performance shall be terminated as to any obligation to be performed hereunder after the date of such Transfer.

C. ENFORCEMENT OF AGREEMENT.

In lieu of and/or in addition to any provisions to cancel the Agreement as referenced herein, City may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any breach of the terms of this Agreement, to recover damages for any breach, or to obtain any other remedy consistent with the purpose of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner specifying the alleged grounds for the default. Said notice shall be given by registered or certified mail addressed to the address

stated in this Agreement and to the last known address of the Owner of the Qualified Historic Property. If such violation(s) is not corrected to the reasonable satisfaction of the City within thirty (30) days from the receipt of the notice of violation, or within such longer period of time as specified or agreed to by City, or within such reasonable time as may be required to cure the breach or default as determined by the City, provided that acts to cure, correct or remedy such breach or default are commenced within thirty (30) days and thereafter diligently pursued to completion, then the City may, without further notice, institute legal action.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the Owner. Any failure or delay by the City in asserting any of its right and remedies as to a breach of any of the conditions, requirements or agreements set forth herein shall not operate as a waiver of such breach or of any such rights or remedies, or deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce such rights or remedies. A waiver by the City of a breach shall not be construed as a waiver of any succeeding breach of the same or other conditions, requirements or agreements set forth in this Agreement.

11. NOTICE.

Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other address as may be later specified by the parties hereto in writing.

TO CITY:

City of Costa Mesa
Economic and Development Services Department
77 Fair Drive, 2nd Floor
Costa Mesa, CA 92626
Attn: _____

TO OWNER:

Name _____

Address _____

12. GENERAL PROVISIONS.

- A. **NON-PARTNERSHIP.** None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint venturers or members of any joint enterprise.
- B. **DEFENSE, INDEMNIFICATION AND HOLD HARMLESS.** Owner agrees to and shall hold City and its elected and appointed officials, officers, employees and/or agents harmless from any and all liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of its contractor, subcontractor, agent, employee and/or other person acting on Owners behalf which relate to the use, operation and maintenance of the Property. Owner hereby agrees to and shall defend, with the attorneys of City's choosing, the City and its elected and appointed officials, officers, employees and/or agents with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connection with the Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the

operations referred to in this Agreement whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Property.

In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

- C. **REMEDY IF AGREEMENT HELD NOT ENFORCEABLE.** All of the conditions, requirements or agreements contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Property, whether by operation of law or in any manner whatsoever.

In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

- D. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement with the same effect as if all parties had signed the same signature page.
- E. **NO COMPENSATION.** Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner acknowledges and agrees that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Property on account of the restrictions on the use and preservation of the Property.
- F. **INDEPENDENT ADVICE OF LEGAL COUNSEL.** The parties hereto and each of them, represent and declare that in executing this Agreement they rely solely on their own belief, knowledge and judgment, and the advice and recommendations of their own independently selected legal counsel, concerning the nature, duration and extent of their rights and or claims, and that they have not been influenced to any extent whatsoever in executing this Agreement by any of the parties hereto or by any person representing them, of any of them.
- G. This Agreement shall be construed and governed in accordance with the laws of the State of California. Venue shall be in a court of competent jurisdiction in Orange County, California.
- H. Owner understands that it is Owner's responsibility to apply for the reassessment of valuation afforded by this Agreement pursuant to Chapter 3, Part 2, of Division 1 of the California Revenue and Taxation Code.

13. RECORDATION OF AGREEMENT.

The City shall record this Agreement with the Orange County Recorder within twenty (20) days of its execution by both parties.

14. ENTIRE AGREEMENT.

This Agreement and the Exhibits attached hereto constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior discussions, negotiations, and agreements whether oral or written.

15. AMENDMENTS.

This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto.

16. ADMINISTRATION.

This Agreement shall be administered by the City's Director of Economic and Development Services (hereinafter "Director" including his/her designee) following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the Director. The Director shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City so long as such actions do not change the uses permitted on the Property or the purpose of this Agreement, and such amendments may include extensions of time specified in Exhibit C. All other waivers or amendments shall require the written approval and consent of the City Council.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURES ON NEXT PAGE)

DRAFT

17. AUTHORITY TO ENTER AGREEMENT.

This Each person executing this Agreement warrants that they have the authority to enter into this Agreement on behalf of the party for whom they sign.

IN WITNESS WHEREOF, the City and Owner have caused this contract to be duly executed.

“OWNER”

Dated: _____, 20____ By: _____
Owner Signature*

Print Name

Dated: _____, 20____ By: _____
Owner Signature*

Print Name

“CITY”

CITY OF COSTA MESA, a municipal corporation

Dated: _____, 20____ By: _____
Mayor

ATTEST:

City Clerk City

APPROVED AS TO FORM:

City Attorney

*Approved Recording Signature Method: The contract signature(s) and printed names(s) above MUST BE IDENTICAL to the printed names(s) on the first page of the contract and the Notary Acknowledgement Form. If not, the contract will be rejected by the County Recorder.

EXHIBIT C. REHABILITATION/RESTORATION/MAINTENANCE PLAN

Property Address: 208 Magnolia Street, Costa Mesa, CA 92627

This form outlines the rehabilitation, restoration, and maintenance plan for the property, beginning with recently completed work (as applicable), followed by proposed work to complete within the next ten years. Work items are arranged chronologically by proposed date of completion and in order of priority.

ITEM NO. 1	
Building Feature:	Front Yard Fence
Description of work:	Replace damaged wood picket fence in front yard with new.
	Estimate Cost (rounded to nearest dollar): <u> \$6,000</u>
	Contract Year of Completion (proposed): <u> First Contract Year</u>
Completed	Proposed
ITEM NO. 2	
Building Feature:	Windows and Doors
Description of work:	Repair or, where severely deteriorated beyond repair, replace in kind wood windows and doors within original openings.
	Estimate Cost (rounded to nearest dollar): <u> \$65,000</u>
	Contract Year of Completion (proposed): <u> First Contract Year</u>
Completed	Proposed
ITEM NO. 3	
Building Feature:	Gutters and Downspouts
Description of work:	Install new, aesthetically appropriate, gutters and downspouts.
	Estimate Cost (rounded to nearest dollar): <u> \$5,000</u>
	Contract Year of Completion (proposed): <u> First Contract Year</u>
Completed	Proposed
ITEM NO. 4	
Building Feature:	Exterior Walls and Trim
Description of work:	Repaint exterior wall and trim throughout.
	Estimate Cost (rounded to nearest dollar): <u> \$30,000</u>
	Contract Year of Completion (proposed): <u> First Contract Year</u>
Completed	Proposed

EXHIBIT C. REHABILITATION/RESTORATION/MAINTENANCE PLAN

Property Address: 208 Magnolia Street, Costa Mesa, CA 92627

This form outlines the rehabilitation, restoration, and maintenance plan for the property, beginning with recently completed work (as applicable), followed by proposed work to complete within the next ten years. Work items are arranged chronologically by proposed date of completion and in order of priority.

ITEM NO. 5	
Building Feature:	Roof
Description of work:	Tear off existing non-original composition shingles, repair/replace any damaged wood framing, install new sheathing and re-roof with new shingles that are compatible with the historic character of the residence in terms of color and materials.
	Estimate Cost (rounded to nearest dollar): <u>\$50,000</u>
	Contract Year of Completion (proposed): <u>Fourth Contract Year</u>
Completed	Proposed
ITEM NO. 6	
Building Feature:	Terra Cotta Tube Vents
Description of work:	Install mesh screening where missing within attic tube vents at gable peaks. Gently scrape paint from terra cotta to restore historic appearance of red clay finish.
	Estimate Cost (rounded to nearest dollar): <u>\$2,500</u>
	Contract Year of Completion (proposed): <u>Fifth Contract Year</u>
Completed	Proposed
ITEM NO. 7	
Building Feature:	Main Porch Light Fixture
Description of work:	Replace existing incompatible plastic floodlight ceiling fixture within main entrance porch with option that is compatible with the historic character of the residence in terms of style and materials.
	Estimate Cost (rounded to nearest dollar): <u>\$500</u>
	Contract Year of Completion (proposed): <u>Fifth Contract Year</u>
Completed	Proposed
ITEM NO. 8	
Building Feature:	Foundation
Description of work:	Engage a qualified structural engineer experienced in working with historic properties to inspect the foundation and make recommendations for any work to upgrade and seismically retrofit the foundation with an implementation plan. If applicable, execute any recommended work in a sensitive manner to avoid causing damage to historic fabric or visually impacting the historic character of the property.
	Estimate Cost (rounded to nearest dollar): <u>\$3,000 - \$15,000</u>
	Contract Year of Completion (proposed): <u>Fifth Contract Year</u>
Completed	Proposed

HISTORICAL PROPERTY PRESERVATION AGREEMENT

City of Costa Mesa

EXHIBIT C. REHABILITATION/RESTORATION/MAINTENANCE PLAN

Property Address: 208 Magnolia Street, Costa Mesa, CA 92627

This form outlines the rehabilitation, restoration, and maintenance plan for the property, beginning with recently completed work (as applicable), followed by proposed work to complete within the next ten years. Work items are arranged chronologically by proposed date of completion and in order of priority.

ITEM NO. 9	
Building Feature:	Garage Door
Description of work:	Replace existing incompatible contemporary metal garage door with option that is compatible with the historic character of the residence in terms of style and materials.
	Estimate Cost (rounded to nearest dollar): <u>\$10,000</u>
	Contract Year of Completion (proposed): <u>Sixth Contract Year</u>
Completed	Proposed

ITEM NO. 10	
Building Feature:	Exterior Wood (trim, windows, doors)
Description of work:	Gently scrape paint, make any necessary repairs to wood and repaint.
	Estimate Cost (rounded to nearest dollar): <u>\$3,500</u>
	Contract Year of Completion (proposed): <u>Seventh Contract Year</u>
Completed	Proposed

ITEM NO. 11	
Building Feature:	Windows and Doors
Description of work:	Inspect wood windows and doors for proper operation and seal and make any necessary repairs to ensure wood is protected and windows and doors are weathertight.
	Estimate Cost (rounded to nearest dollar): <u>\$4,500</u>
	Contract Year of Completion (proposed): <u>Seventh Contract Year</u>
Completed	Proposed

ITEM NO. 12	
Building Feature:	Gutters and Downspouts
Description of work:	Inspect gutters and downspouts for damage or deterioration and make any necessary repairs to ensure water sufficiently drains away from the building.
	Estimate Cost (rounded to nearest dollar): <u>\$1,000</u>
	Contract Year of Completion (proposed): <u>Seventh Contract Year</u>
Completed	Proposed

EXHIBIT C. REHABILITATION/RESTORATION/MAINTENANCE PLAN

Property Address: 208 Magnolia Street, Costa Mesa, CA 92627

This form outlines the rehabilitation, restoration, and maintenance plan for the property, beginning with recently completed work (as applicable), followed by proposed work to complete within the next ten years. Work items are arranged chronologically by proposed date of completion and in order of priority.

ITEM NO. 13

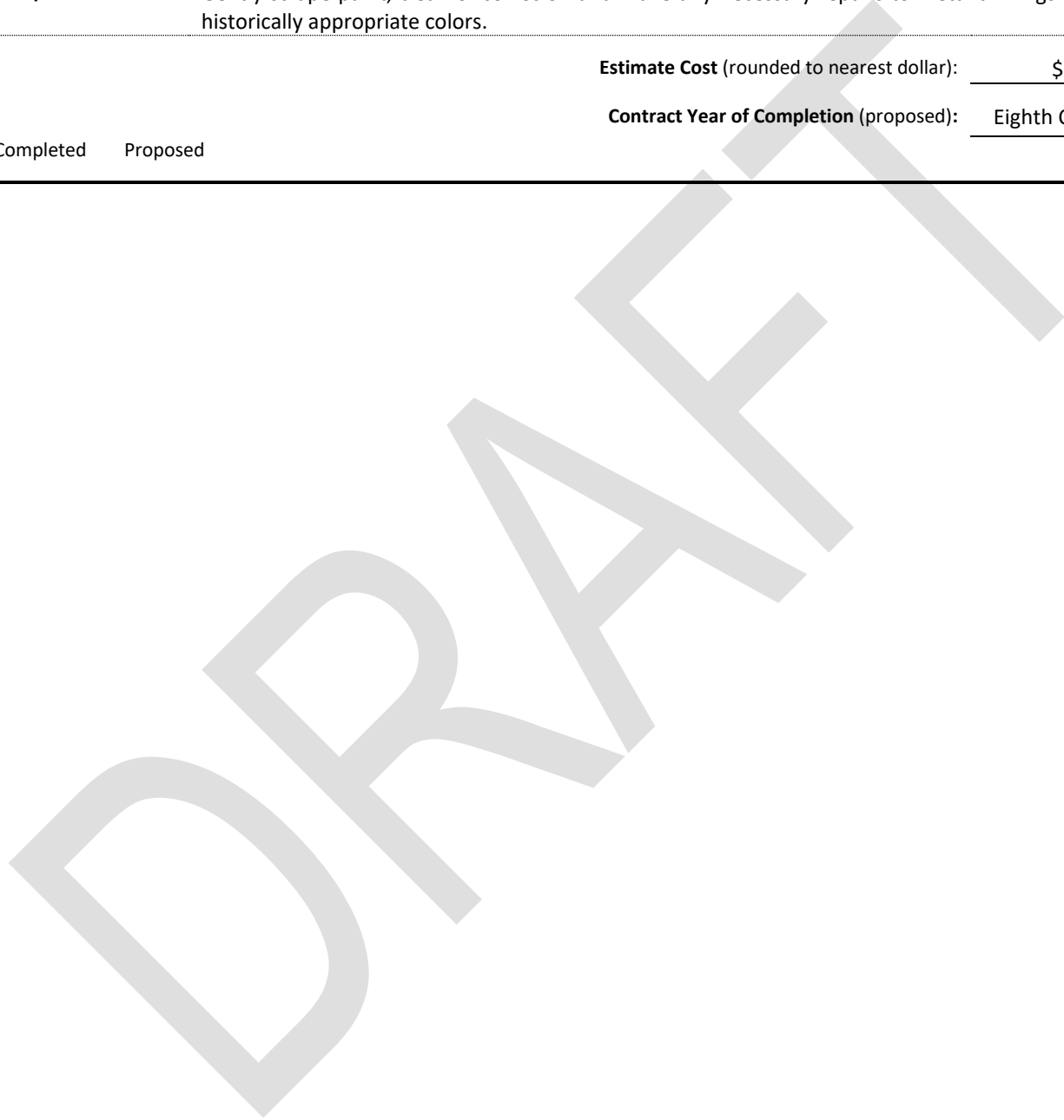
Building Feature: Metal Awnings

Description of work: Gently scrape paint, clean of corrosion and make any necessary repairs to metal awnings and repaint in historically appropriate colors.

Estimate Cost (rounded to nearest dollar): \$10,000

Contract Year of Completion (proposed): Eighth Contract Year

Completed Proposed



State of California — The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____
 HRI # _____
 Trinomial _____
 NRHP Status Code 5S1

Other Listings
 Review Code _____ Reviewer _____ Date _____

Page of Resource Name or #: (Assigned by recorder) 208 Magnolia Street

P1. Other Identifier: Leroy Anderson's House
 P2. Location: Not for Publication Unrestricted a. County Orange County
 and (P2b and P2c or P2d. Attach a Location Map as necessary.)
 b. USGS 7.5' Quad _____ Date _____ T _____ ; R _____ ; 1/4 of _____ 1/4 of Sec _____ ;
 c. Address: 208 Magnolia Street City Costa Mesa Zip _____
 d. UTM: (Give more than one for large and/linear resources) _____ ; _____ mE _____ mN
 e. Other Location Data (Enter Parcel #, legal description, directions to resource, elevation, etc., as appropriate)

Parcel No. 425-402-02

P3. Description (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)
A steep, cross-gable roof and stuccoed exterior identify the Period Revival (English) influence in the design of this one-story bungalow. The residence has a L-shaped plan with a front facing gable wing projecting out from the west side of the primary (south) elevation. Beneath the front gable are a pair of large, multi-pane casement windows and three circular vent openings. Smaller, multi-pane windows punctuate the east half of the primary elevation. Canvas awnings hang over all the window openings. the property lot is lushly landscaped and is enclosed by a white picket fence.

P3b. Resource Attributes: (List attributes and codes) HP2 - Single Family Property

P4. Resources Present Building Structure Object Site District Element of District Other (Isolates, etc.)

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects)

P5b. Description of Photo: (View, date, accession #)
 (View toward north). Photo No: 10-8, 1/1/99



P6. Date Constructed/Age and Sources:
 Prehistoric Historic Both
1927

P7. Owner and Address
Private

P8. Recorded by: (Name, affiliation, and address)
PCR Services Corporation, 233 Wilshire Blvd., S
 130, Santa Monica, CA

P9. Date Recorded: 7/1/99

P10. Survey Type: (Describe)
City-wide Survey

P11. Report Citation: (Cite survey report and other sources, or enter "none")

Attachments NONE Continuation Sheet _____ District Record _____ Rock Art Record _____ Other: (List) _____
 Location Map Building, Structure, and Object Record _____ Linear Feature Record _____ Artifact Record _____
 Sketch Map _____ Archaeological Record _____ Milling Station Record _____ Photograph Record _____

BUILDING, STRUCTURE, AND OBJECT RECORD

Page of

NRHP Status Code

551

Resource Name or #: (Assigned by recorder) 208 Magnolia Street

B1. Historic Name: *Leroy Anderson's House*

B2. Common Name: *Leroy Anderson's House*

B3. Original Use: *Residential*

B4. Present Use: *Residential*

B5. Architectural Style: *Period Revival (English)*

B6. Construction History: (Construction date, alterations, and date of alterations)

Built: 1927

B7. Moved? No Yes Unknown Date:

Original Location:

B8. Related Features:

B9a. Architect: *Unknown*

b. Builder: *Unknown*

B10. Significance: Theme: *Residential Development*

Area: *Costa Mesa*

Period of Significance: *1927*

Property Type: *Residential*

Applicable Criteria: *N/A*

(Discuss importance in terms of historical or architectural context as defined by theme, period and geographic scope. Also address integrity.)

This property appears ineligible for the National Register. The bungalow is one of only a dozen which reflect the Period Revival style in residential design within the City of Costa Mesa. The building is locally significant for its architecture and its association with an early prominent local citizen, LeRoy Anderson. The dwelling reflects the size, scale, massing, plan, and architectural style of its generation in Costa Mesa and is a good example of its property type. This house was built in 1927, for LeRoy Anderson, a prominent local attorney who was instrumental in the early development of Costa Mesa.

B11. Additional Resource Attributes: (List attributes and codes) *HP2 - Single Family Property*

B12. References:

*A Slice of Orange; Costa Mesa City Directories; Sanborn Maps;
Orange County Assessor's Records; Costa Mesa Historical Society;
Los Angeles Public Library*

(Sketch Map with north arrow required.)

B13. Remarks:

B14. Evaluator: *Jan Ostashay*

Date of Evaluation: *7/1/99*

(This space reserved for official comments.)



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-029

Meeting Date: 1/22/2024

TITLE:

ORDINANCE TO AMEND TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE AND ORDINANCE TO AMEND TITLE 9 (LICENSES AND BUSINESS REGULATIONS) FOR MODIFICATIONS TO THE CITY'S RETAIL CANNABIS PROVISIONS

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/ PLANNING DIVISION

PRESENTED BY: MICHELLE HALLIGAN, CONTRACT PLANNER; NANCY HUYNH, PRINCIPAL PLANNER

**CONTACT INFORMATION: MICHELLE HALLIGAN, 714.754.5608;
Michelle.Halligan@costamesaca.gov**

RECOMMENDATION:

Staff recommends the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) in that the updates to the City's retail cannabis provisions will not have a significant impact on the environment; and
2. Recommend that the City Council give first reading to ordinances approving Code Amendment No. 2024-XX, amending portions of the Costa Mesa Municipal Code Title 13 (Planning Zoning, and Development), and Code Amendment No. 2024-XX, amending portions of Title 9 (Licenses and Business Regulations), both pertaining to retail cannabis storefront regulations.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JANUARY 22, 2024 ITEM NUMBER: PH-2

SUBJECT: ORDINANCE TO AMEND TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE AND ORDINANCE TO AMEND TITLE 9 (LICENSES AND BUSINESS REGULATIONS) FOR MODIFICATIONS TO THE CITY'S RETAIL CANNABIS PROVISIONS

**FROM: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/
PLANNING DIVISION**

**PRESENTATION BY: MICHELLE HALLIGAN, CONTRACT PLANNER
NANCY HUYNH, PRINCIPAL PLANNER**

**FOR FURTHER INFORMATION CONTACT: MICHELLE HALLIGAN
714.754.5608
Michelle.Halligan@costamesaca.gov**

RECOMMENDATION

Staff recommends the Planning Commission adopt a Resolution to:

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APPLICANT OR AUTHORIZED AGENT

The subject Ordinance modification is a City Council initiated effort.

BACKGROUND:

Since the adoption of Ordinance No. 2021-08 (Title 9, Business Licenses) and Ordinance No. 2021-09 (Title 13, Zoning) to establish regulations for legal cannabis storefront and non-storefront (delivery) uses, the City has approved 22 Conditional Use Permits for cannabis retail storefronts, three CUPs for standalone cannabis delivery businesses, and seven Minor Conditional Use Permits to add non-storefront retail delivery to existing cannabis manufacturing and/or distribution facilities located in the City's Measure X "green zone". Nine cannabis storefronts, one standalone delivery business, and seven delivery businesses that are part of existing manufacturing and/or distribution cannabis businesses in the "green zone" are currently operating. There are 31 other cannabis storefront applications that have not obtained Conditional Use Permits and are in various stages of application review.

At the July 18, 2023 City Council meeting, Councilmember Marr requested that an item be agendaized for the City Council to discuss the possibility of exploring amendments to the City's cannabis provisions to address community member concerns regarding potential business displacement and cannabis storefront overconcentration. The item was agendaized for the August 1, 2023 City Council meeting and was continued to the regular meeting of September 5, 2023 without discussion.

At the September 5, 2023 City Council meeting, the City Council discussed the status of the City's cannabis retail regulations and current retail operations. Specifically, the City Council discussed issues regarding unanticipated business displacement and overconcentration of retail cannabis businesses, and several other areas of concern related to the City's retail cannabis storefront program. Members of the public provided written and spoken testimonies describing concerns regarding overconcentration of cannabis storefronts, lack of a limit on the number of cannabis storefronts, the need for a minimum separation between cannabis storefronts and residential uses, decreased residential property values, traffic impacts, increased criminal activity, and impacts on youth. At the conclusion of the public hearing and after considering public testimony, the City Council voted on the following motions directing staff to further explore the following topics/issues with the Planning Commission, and for the Planning Commission to make a recommendation to the City Council regarding potential Code amendments:

- Increasing the minimum separation between cannabis storefronts and "youth centers", as defined in the Municipal Code from 600 feet to 1,000 feet to be consistent with other sensitive use separation requirements;
- Establishing a minimum separation between cannabis storefronts and properties zoned for residential use;
- Establishing a minimum separation between cannabis storefronts;
- Establishing a maximum number of retail cannabis storefronts;
- Allowing the word "cannabis" on cannabis storefront signage;
- Adding limitations to prohibit the advertising and marketing of cannabis and cannabis products to youth;

- Strengthening of labor peace agreement requirements for cannabis storefronts; and
- Establishing provisions for notification and relocation assistance for existing businesses that would be displaced by retail cannabis uses.

At the November 27, 2023 Planning Commission meeting, the Planning Commission discussed potential modifications regarding the first four topics listed on the previous page and continued the item to December 11, 2023.

November 27, 2023 Planning Commission Staff Report:

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6430260&GUID=090DEB19-B248-42BE-83E0-41EB6003490B>

Minutes:

<https://costamesa.legistar.com/View.ashx?M=M&ID=1140539&GUID=8E7DDAD3-212C-4ADA-BD75-859EA1736B77>

Video:

https://costamesa.granicus.com/player/clip/4065?view_id=14&redirect=true&h=73613c84a6f01a923ffea75485cf99ab

At the December 11, 2023 Planning Commission meeting, the Planning Commission discussed the four remaining topics, and directed staff to prepare draft ordinance revisions based on their discussions at the November 27th and December 11th meetings, to be reviewed by the Planning Commission at a regularly scheduled meeting on January 22, 2024.

December 11, 2023 Planning Commission Staff Report:

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6448844&GUID=30956049-B12A-48D4-824D-6A17822168CF>

Video:

https://costamesa.granicus.com/player/clip/4071?view_id=14&redirect=true&h=3afc5737bffd6e2094027c9beb28f56c

DESCRIPTION:

The City Council considered written and spoken testimony related to cannabis storefronts, and directed the Planning Commission to explore potential amendments related to eight retail cannabis program topics and ultimately make recommendations to the City Council for consideration. The proposed draft modifications reflect direction provided by the Planning Commission pertaining to cannabis storefront location criteria, conditional use permits (CUPs), cannabis business permits (CBPs), and storefront operations, and if adopted, would amend specific cannabis storefront provisions in both Title 13 (Planning, Zoning, and Development) and Title 9 (Licenses and Business

Regulations) of the CMMC. Several additional text changes are proposed to Title 13 and Title 9 to clarify existing and proposed law and intent pertaining to retail cannabis uses.

ANALYSIS:

The following analysis describes the Planning Commission's recommended modifications to the City's retail cannabis storefront program. The proposed amended cannabis sections of Title 13 and Title 9 of the CMMC are reflected in draft City Council ordinances contained in Attachments 4 and 5, respectively. The proposed amendments are distinctly shown in "redline" versions, where added text is identified by an underline and text removal is shown in ~~strike through~~ format in Attachments 6 (Title 13) and 7 (Title 9).

Separation between Cannabis Storefronts and Youth Centers

The CMMC requires that cannabis storefronts must be located a minimum of 1,000 feet from K-12 schools, child daycares, playgrounds, and homeless shelters. The adopted minimum separation between youth centers and cannabis storefronts is 600 feet in accordance with the State's minimum requirement (California Business and Professions Code Section 26054(b)).

The City Council's direction to the Planning Commission regarding youth centers was to "explore increasing the minimum separation between cannabis storefronts and youth centers from 600 feet to 1,000 feet". The Planning Commission reviewed separation requirements adopted by several other cannabis permitting jurisdictions, and considered the potential constraints to the City's retail cannabis operations in comparison to the potential community benefits. Ultimately, the Planning Commission recommended amending the CMMC to increase the minimum separation between cannabis storefronts and youth centers from 600 feet to 1,000 feet, consistent with the City's buffers between cannabis storefronts and schools and other specific sensitive uses, as adopted. The proposed text change regarding separation from youth centers is provided in section 13-200.93(f) in Attachment 6.

Separation Between Cannabis Storefronts and Residential Zones

The CMMC conditionally allows cannabis storefronts in commercial zones without a minimum separation from residential uses. The Planning Commission discussed potential minimum separations between cannabis storefronts and residential zones, including examples from other cannabis permitting jurisdictions. The Planning Commission also considered the potential citywide reduction in the overall number of potential cannabis retail storefronts that would occur from a required residential separation. Ultimately, the Planning Commission determined that a 100-foot separation between cannabis storefronts and a property zoned for residential use would be an appropriate minimum distance for land use compatibility and to protect the health, safety, and welfare of the public and properties in the immediate neighborhood. As described in section 13-200.93(f) in Attachment 6, the proposed 100-foot minimum separation between cannabis storefronts and properties zoned for residential use would be

measured in the same manner as the other cannabis sensitive use separations; a straight line from the cannabis premises to the closest property line of a property zoned for residential use. For the purpose of establishing separation from residential zones, Code modifications have been added to clarify that a “property zoned for residential use” does not include properties zoned for nonresidential uses where a residential unit or units have been developed (legal nonconforming), nor where an overlay, urban plan, or specific plan allows the development of residential units and no residential development is currently developed.

Separation Between Cannabis Storefronts

The adopted CMMC does not establish a minimum separation between cannabis storefronts. Per City Council direction, the Planning Commission explored establishing a minimum separation requirement between cannabis storefronts. To assist the Planning Commission in their considerations, staff provided examples of minimum separation requirements from several Southern California jurisdictions with cannabis ordinances ranging from no separation to a 1,000-foot minimum separation, and included further analysis regarding their population sizes.

At the November 27, 2023 Planning Commission meeting, four Commissioners expressed support for a separation of 1,000 feet between storefronts and five Commissioners expressed support for a separation of 500 feet. Ultimately, the Planning Commission requested that staff draft a methodology for measuring the proposed 500-foot minimum separation. A cannabis storefront is not a sensitive use; therefore, instead of measuring the shortest distance from a cannabis premises to a property line, staff proposes measuring the shortest distance between the two premises. In a single-tenant building where a cannabis would occupy the entire space, the entire building is the premises. In a multitenant building or shopping center, the premises would be the specific suite(s) where the cannabis use is proposed. The 500-foot minimum separation measurement for both single-tenant and multi-tenant configurations would be conducted in the same manner—the shortest distance in a straight line from a proposed cannabis storefront premise to a cannabis storefront premise where there is an approved CBP for a cannabis storefront.

The amendments to separation requirements would result in several of the existing operating and previously approved cannabis storefront locations to become nonconforming. Pursuant to the revised Code provisions, any approved retail cannabis storefront CUP location that does not conform to the separation requirements as amended, but which lawfully met separation requirements at the time of the submission of a CBP application for the subject property, would be considered a legal nonconforming use, and may continue to operate. The proposed minimum separation between storefronts as well as nonconforming provisions specific to cannabis storefront locations are provided in section 13-200.93(f) of Attachment 6.

Limit on Cannabis Storefronts

As adopted, the CMMC does not currently limit the number of cannabis storefront applications that will be processed nor the number of total retail Cannabis Business Permits (CBPs) that will be issued. Per the existing adopted Title 9, Section 9-489(d), the City Council may by resolution limit and/or restrict the number of cannabis retail permits available for issuance and/or renewal. During the discussion of potential future limitations on applications and CBPs, the Planning Commission reached a consensus that 15 cannabis storefronts would be an appropriate number in the community in consideration of Costa Mesa voters' approval of Measure Q. However, in recognition of already approving 22 CUPs for cannabis storefronts under the adopted code, and understanding that several more CUPs for cannabis storefronts are in progress, the Planning Commission affirmed that recommending approving 30 CUP applications for cannabis storefronts, while establishing a future cap of 15 would be an acceptable compromise.

As proposed, following the City approval of the 30th retail cannabis storefront CUP location, no further CUPs for cannabis storefronts may be processed or approved until such time as the total number of existing CUPs for cannabis storefronts located in the City falls below 15. Once the total number of existing CUPs for cannabis storefronts falls below 15, the City may then consider/approve additional cannabis storefront CUPs not to exceed a total of 15. The proposed redline version of the modification is provided in section 13-200.93(e) in Attachment 6. The proposed amendment would also involve the subsequent addition of section 9-494.5, pertaining to CBPs, provided in Attachment 7.

Reflective of the Planning Commission's desire to allow the total number of cannabis storefronts to eventually decrease from 30 to 15 over time, several points of clarification are proposed regarding obtaining a cannabis storefront CUP or CBP and situations in which a cannabis storefront CUP, CBP, or CBP renewal may be voided, forfeited, denied, etc. Modifications to Title 13 and Title 9 are shown in "redlines" in Attachment 6 and Attachment 7, respectively.

- Modifications to 13-200.93(7) include provisions for terminating CUPs at locations where the cannabis retail storefront use is nonconforming and discontinued and/or replaced.
- Modifications to Title 9-488(a) and (b) would clarify that a cannabis business permit holder, use, and application for CBP renewal must be compliant with the adopted administrative regulations and that failure to comply and submit timely renewal fees shall be grounds for denying a renewal.
- As proposed, Title 9-493 would be amended to specify that failure to hold a valid business license shall render the CBP invalid.

Allowing the word "Cannabis" on Storefront Signage

As directed by the City Council, the Planning Commission considered allowing the word "cannabis" to be included on cannabis storefront signage. As adopted, CMMC Section 9-

495(g)(6) contains provisions for signage and notices at cannabis storefronts to limit cannabis signage to what is necessary for identification only and operators shall post a notice at entrances prohibiting onsite smoking, ingestion, and so on. Additionally, retail cannabis storefronts have also been subject to the following standard condition of approval:

“No signage shall be installed until the owner/operator or its designated contractor has obtained permits required from the City. Business identification signage shall be limited to that needed for identification only. Business identification signage shall not include any references to cannabis, whether in words or symbols. All signs shall comply with the CMMC.”

The intention of this condition is to ensure cannabis dispensaries maintain a high-quality aesthetic and limit cannabis advertising in the City to persons under 21 years of age. The Planning Commission determined that instead of allowing the word cannabis on business identification signage, it would be more appropriate to allow the word “cannabis” on the notice to be posted only at entrances of cannabis businesses in a manner that is generally not visible from public rights-of-way. A notice regarding not consuming cannabis is already required at cannabis business entrances. Staff drafted the amendment to specifically allow the word cannabis to be included up to two times, with a maximum letter height of one inch, on notices posted at cannabis business entrances to help people identify that the facility is a cannabis storefront prior to entering. All notice lettering shall be the same font and color. A redline version of the proposed modification to 9-495(g)(6b) is provided in Attachment 7.

Advertising and Marketing Restrictions Related to Youths

Pursuant to City Council direction, the Planning Commission also considered potential code amendments to restrict cannabis marketing to youth beyond State regulations. The Planning Commission directed staff to draft language prohibiting cannabis advertising and marketing materials from being attractive to youth and prohibit depictions of individuals under 21 years of age consuming cannabis or cannabis products. Staff identified potential difficulties in enforcing the age-based restriction, and therefore has recommended amending the code to specify that advertising and marketing materials shall not encourage persons under 21 years of age to consume cannabis or cannabis products and shall not depict or suggest the consumption of cannabis or cannabis products. This proposed modification to Title 9-495(g)(6e) is provided in Attachment 7.

Strengthening Labor Peace Agreement Regulations

CMMC 9-495(h)(18) requires a retail CBP applicant to provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement (LPA). The City Council directed the Planning Commission to explore whether or not the City should modify the CMMC to strengthen policies pertaining to LPAs.

Labor organizations as well as current or former employees can submit complaints regarding a licensee to the California Department of Cannabis Control (DCC). When an organization has been determined to not be a bona fide labor organization, the DCC will contact cities and counties throughout the State. The DCC is actively in contact with Costa Mesa staff regarding the status of labor organizations, and staff has received at least one notification from the DCC regarding a non-bona fide labor organization. The Planning Commission did not recommend proposing modifications to the CMMC pertaining to cannabis LPAs, citing that the appropriate agency for collecting complaints and investigating cannabis LPA issues would be the DCC.

Establishing Business Displacement Regulations

The Planning Commission and City Council has previously heard testimony that existing tenants to be replaced by cannabis storefronts have been assisted financially, provided an option to remain for a certain time under reduced monthly rents, and also offered another suite if located in a multi-tenant building. However, there have also been several commercial tenants on month-to-month leases where leases were terminated or otherwise ended with minimal notice and without offering of assistance.

Although the Planning Commission expressed concern for the businesses that have been or would be displaced by cannabis retailers, they acknowledged that changes in tenancy would occur based on existing commercial lease agreements over which the City does not and should not have control. The Planning Commission is not recommending modifications regarding displacement notification and relocation assistance provisions given that non-residential tenants and property owners have entered into private lease agreements and would conduct business, including terminating occupancy, according to those agreements.

Other Text Modifications for Clarity

In addition to the amendments proposed in response to direction by the Planning Commission, staff is proposing text modifications to clarify existing and proposed law and intent as summarized in Table 1, below. The redline version of these proposed text edits are attached to this report in the attachments listed in Table 1, below.

Table 1. Summary of Other Text Modifications for Clarity

Code Section	Summary of Change	Redline
13-200.93(d)(4) Cannabis retail storefront and non-storefront uses	Clarifies that the use must comply with all conditional use permit conditions of approval.	Attachment 6, page 2
9-490(a) Revocation.	Clarifies that a CBP may be revoked and/or suspended and “deemed abandoned or forfeited pursuant to the procedures of section 9-495.”	Attachment 7, page 6
9-490(d) Ineligibility.	Add “business” the present tense “engages in” and “during the application process.”	Attachment 7, page 6
4-494 Conditional use	Add that approval of a CUP shall not waive any other state or	Attachment 7,

permit required.	local requirements.	page 7
4-495(h)(16) Additional operating requirements for retail (storefront) businesses.	Clarify that “operate” shall include, but not be limited to, remitting monthly taxes to the city. Provides more detail regarding when a cannabis retail business would be considered abandoned, therefore forfeiting the cannabis business permit.	Attachment 7, page 12

GENERAL PLAN CONFORMANCE:

This item is administrative in nature.

ENVIRONMENTAL DETERMINATION:

The Code Amendment and Ordinance were reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City’s environmental procedures. The Planning Commission’s recommendation regarding the Ordinance are exempt pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) because the potential amendments to the ordinance will not have a significant effect on the environment.

LEGAL REVIEW:

The City Attorney’s Office has reviewed and approved this report as to form.

PUBLIC NOTICE:

Pursuant to CMMC Section 13-29(d) public notification has been completed no less than 10 days prior to the date of the public hearing:

1. On-site posting. A public notice was posted at City Hall.
2. Newspaper publication. A public notice was published once in the Daily Pilot newspaper.

Any public comments received prior to the January 22, 2024, Planning Commission meeting may be viewed at this link: <https://costamesa.legistar.com/Calendar.aspx>

CONCLUSION:

The Costa Mesa City Council directed the Planning Commission to explore potential amendments to the City’s adopted retail cannabis program. As directed, the Planning Commission is making several recommendations to modify portions of Title 13 (Planning, Zoning, and Development) of the CMMC and Title 9 (Business Licenses) that are specifically applicable to retail cannabis storefronts. As directed by the Planning Commission, staff prepared modifications to implement the following key amendments to the City’s retail cannabis program:

- Increase the minimum separation between cannabis storefronts and youth centers from 600 feet to 1,000 feet;

- Establish a 100-foot minimum separation between cannabis storefronts and properties zoned for residential use;
- Establish a 500-foot minimum separation between cannabis storefronts;
- Limit the number of retail cannabis storefront conditional use permits and cannabis business permits to 30. After 30 are approved/issued, additional conditional use permits or business permits for retail cannabis storefronts would not be processed or approved until there are fewer than 15 cannabis storefronts in the city;
- Allow the word “cannabis” up to two times on a small notice at cannabis business entrances; and
- Prohibit cannabis advertising and marketing materials that encourage persons under 21 years of age to consume cannabis or cannabis products and prohibit advertising and marketing materials that depict or suggest the consumption of cannabis or cannabis products.

Staff recommends the Planning Commission receive the staff presentation, take public comment, and make a recommendation for the City Council to review the draft ordinance amendments.

ACTION:

1. City Council authorized an increase to the City's Table of Organization by one full-time Park Ranger position in the Police Department and increased the Fiscal Year 2023-24 Adopted Budget accordingly.
2. Received and filed an update on upcoming amendments to the existing Lyons Security Services agreement to increase access to open space at up to four elementary school sites on the Westside (Rea, Wilson, Whittier, and potentially Pomona) for open space during off-school hours, as previously approved by the City Council.
3. Provided staff the authority to increase security at all school sites within the 6-month pilot period if needed.

2. COMPENSATION PLAN AND SALARY SCHEDULE REVISIONS FOR THE PARKS AND COMMUNITY SERVICES DIRECTOR CLASSIFICATION

Presentation by Ms. Lee, Human Resources Manager.

Public Comments: None.

MOVED/SECOND: Council Member Gamos/Council Member Chavez

MOTION: Approve staff recommendation.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gamos, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council adopted Resolution Number 2023-44 revising the pay ranges for the Parks and Community Services Director.

3. REQUEST FOR CITY COUNCIL DIRECTION REGARDING THE RESEARCH FOR AND POTENTIAL DEVELOPMENT OF AMENDMENTS TO THE CITY'S CANNABIS ORDINANCES

Presentation by Ms. Le, Economic and Development Services Director.

Discussion ensued on the length of the application process, location of the stores, stores that are currently operating, how many applications are in process and a saturation point on the number of stores, researching statistics at other cities that allow retail cannabis stores, the application process and the timing of the issuance of notice to proceed, the number of delivery applications, the over concentration of alcohol permits, separation requirements, the process and payment of fees, denial of applications, refunding application fees, signage requirements, and clear direction to the Planning Commission.

Public Comments:

Alex Frank spoke on the cannabis businesses at Broadway and Newport Blvd. and spoke against the overconcentration of stores near homes on the eastside of Costa Mesa.

Speaker, spoke in support of amending the cannabis ordinance, spoke on zoning, spoke in support of separation requirements to residential areas, and spoke on restricting the number of licenses and permits.

Erik Weigand, Newport Beach City Council Member, expressed concerns on overconcentration, spoke on examining distance requirements, and spoke on the Newport Mesa Unified School District adopted resolution submitted to the City Council.

Elizabeth Mosher, Costa Mesa, spoke on guidance to the Planning Commission, expressed concern on overconcentration, and spoke on clustering affecting residential areas and potential long-term effects.

Speaker, spoke on her home facing a cannabis store on Cabrillo Street, indicated residential areas should be considered as a sensitive area and have separation requirements, and expressed concern on clustering.

Speaker, spoke on economics and allowing the sale of cannabis, and adopting controls.

Speaker, spoke on separation requirements and a 1000 ft. buffer for established residential areas, spoke on including all parks along with playgrounds, spoke on examining statistics from other cities, supports council direction on reviewing the ordinance, and spoke on oversaturation on Newport Blvd and Harbor Blvd corridors and the Broadway area.

Written communications received from Cynthia McDonald and Ashley Anderson.

MOVED/SECOND: Mayor Stephens/Mayor Pro Tem Harlan
MOTION: To consider amendments to the cannabis ordinance.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council considered amendments to the cannabis ordinance.

MOVED/SECOND: Mayor Stephens/Council Member Marr

MOTION: Direct the Planning Commission to consider a buffer zone between stores.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council directed the Planning Commission to consider a buffer zone between stores.

MOVED/SECOND: Mayor Stephens

MOTION: To consider the cost and procedure for issuing employee badges.

Ms. Farrell Harrison, City Manager, clarified that the request does not need to go before the Commission as it is separate from the ordinance.

Mayor Stephens withdrew the motion.

MOVED/SECOND: Council Member Marr/Council Member Reynolds

MOTION: Direct the Planning Commission to consider a buffer zone adjacent to youth centers to be consistent with K-12 schools.

Discussion ensued on the definition of a youth center.

MOVED/SECOND: Council Member Marr/Council Member Reynolds

MOTION: Direct the Planning Commission to consider a buffer zone adjacent to youth centers to be consistent with K-12 schools.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council directed the Planning Commission to consider a buffer zone adjacent to youth centers to be consistent with K-12 schools.

MOVED/SECOND: Council Member Chavez/Council Member Marr

MOTION: Direct the Planning Commission to review signage requirements and allowing the word cannabis on signage.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council directed the Planning Commission to review signage requirements and allowing the word cannabis on signage.

MOVED/SECOND: Council Member Chavez

MOTION: Direct the Planning Commission to consider reducing security guard hours to only hours of operation.

The motion failed for lack of a second.

MOVED/SECOND: Council Member Marr/Council Member Harper

MOTION: Direct the Planning Commission to consider a buffer zone adjacent to residential areas.

The motion carried by the following roll call vote:

Ayes: Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: Council Member Chavez.

Absent: None.

Abstain: None.

Motion carried: 6-1

ACTION:

City Council directed the Planning Commission to consider a buffer zone adjacent to residential areas.

MOVED/SECOND: Council Member Reynolds/Council Member Chavez

MOTION: Direct the Planning Commission to consider health warnings posted in the store and to limit packaging and marketing attractive to youth.

Discussion ensued on clarifying the motion.

Ms. Farrell Harrison, City Manager, clarified to explore language that prohibits the direct marketing to youth.

Council Member Chavez withdrew his second.

Council Member Marr requested to broadly consider policy recommendations and best practices as described in the 2023 California Local Cannabis scorecard.

Council Member Reynolds restated her motion: Direct the Planning Commission to consider the recommended best practices to protect youth, reduce problem cannabis, and promote social equity as described in the Public Health Institute Cannabis scorecard.

Discussion ensued on tabling the item until the next meeting.

Council Member Reynolds restated her motion.

MOVED/SECOND: Council Member Reynolds/Council Member Marr

MOTION: Direct the Planning Commission to consider a policy and best practices to prohibit the direct marketing to minors.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council directed the Planning Commission to consider a policy and best practices to prohibit the direct marketing to minors.

Mayor Pro Tem Harlan requested the following information be available to the Planning Commission when making recommendations: revenue numbers, number of calls for service, and the number of code enforcement complaints for each storefront location, and number of employees per store.

Mayor Stephens agreed and clarified there is no need for a vote, and also to add the statistics on concentration of liquor stores, vape stores, and any legal ramifications of any of the amendments.

MOVED/SECOND: Council Member Harper

MOTION: Direct the Planning Commission to consider a buffer zone near businesses with a high concentration of youth, including karate studios, arts shops, and pediatric dental.

The motion failed for lack of a second.

MOVED/SECOND: Council Member Harper/Council Member Reynolds

MOTION: Direct the Planning Commission to consider a cap on the number of stores based on data from other cities that have a longer history of allowing cannabis sales.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council directed the Planning Commission to consider a cap on the number of stores based on data from other cities that have a longer history of allowing cannabis stores.

MOVED/SECOND: Council Member Reynolds

MOTION: Direct the Planning Commission to consider a cap based on concentration similar to ABC licenses.

The motion failed for lack of a second.

MOVED/SECOND: Council Member Gameros/Mayor Stephens

MOTION: Direct the Planning Commission to consider an enforceable labor peace agreement.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council directed the Planning Commission to consider an enforceable labor peace agreement.

Council Member Gameros spoke on clarifying when and where the potential changes would apply to the applicants in the process.

MOVED/SECOND: Council Member Marr/Council Member Gameros

MOTION: Direct the Planning Commission to consider a prohibition of displacement of existing businesses, how they are notified, and whether relocation fees are required.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0


ACTION:

City Council directed the Planning Commission to consider a prohibition of displacement of existing businesses, how they are notified, and whether relocation fees are required.

ADDITIONAL COUNCIL/BOARD MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS – NONE.

ADJOURNMENT –The Mayor adjourned the meeting at 11:14 p.m. in memory of Norma Hertzog.

Minutes adopted on this 19th day of September, 2023.



John Stephens, Mayor

ATTEST:



Brenda Green, City Clerk

ORDINANCE NO. 2024-XX

RESOLUTION RECOMMENDING THAT THE CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE TO AMEND THE CANNABIS RETAIL STOREFRONT PROVISIONS IN TITLE 13 (PLANNING, ZONING, AND DEVELOPMENT), CHAPTER IX (SPECIAL LAND USE REGULATIONS), ARTICLE 21 (LOCATION OF CANNABIS DISTRIBUTING, MANUFACTURING, RESEARCH AND DEVELOPMENT, TESTING LABORATOIES, RETAIL STOREFRONT AND RETAIL NONSTOREFRONT USES) OF THE COSTA MESA MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, in November 2020, the Costa Mesa voters approved Measure Q; which allows for storefront and non-storefront retail cannabis uses on commercially zoned properties meeting specific location requirements, and non-storefront retail cannabis uses on Industrial Park (MP) and Planned Development Industrial (PDI) zoned properties;

WHEREAS, Measure Q authorizes the City Council to adopt ordinances to regulate cannabis retail uses;

WHEREAS, on June 15, 2021, the City Council adopted Ordinance No. 21-08 and No. 21-09 to amend Titles 9 and 13 of the Costa Mesa Municipal Code (CMMC) to establish regulations for cannabis retail uses;

WHEREAS, at the July 18, 2023 City Council meeting, a Councilmember requested that an item be agendaized to discuss the potential for exploring amendments to the City's cannabis ordinances in response to public input;

WHEREAS, on September 5, 2023, the City Council directed the Planning Commission to explore potential amendments to the City's cannabis retail storefront provisions specific to eight topics;

WHEREAS, the Planning Commission discussed potential amendments to the City's cannabis retail storefront provisions at the November 27, 2023, December 11, 2023, and January 22, 2024, Planning Commission meetings;

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

1. Adoption of this resolution is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) in that

there is no possibility that the minor updates to the City's retail cannabis storefront provisions will have a significant impact on the environment.

2. The Planning Commission recommends the City Council approve the amendments to Title 13, Planning, Zoning, and Development of the Costa Mesa Municipal Code, as attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the CEQA exemption for this project reflects the independent judgement of the City.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the document in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 22nd day of January, 2024.

Adam Ereth, Chair
Costa Mesa Planning Commission

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

I, Scott Drapkin, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. PC-2024-XX was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on January 22, 2024 by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

Scott Drapkin, Secretary
Costa Mesa Planning Commission

Resolution No. PC-2024-XX

ORDINANCE NO. 2024-XX**RESOLUTION RECOMMENDING THAT THE CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE TO AMEND THE CANNABIS RETAIL STOREFRONT PROVISIONS IN TITLE 9 (LICENSES AND BUSINESS REGULATIONS), CHAPTER VI (CANNABIS BUSINESS PERMITS) OF THE COSTA MESA MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, in November 2020, the Costa Mesa voters approved Measure Q; which allows for storefront and non-storefront retail cannabis uses on commercially zoned properties meeting specific location requirements, and non-storefront retail cannabis uses on Industrial Park (MP) and Planned Development Industrial (PDI) zoned properties;

WHEREAS, Measure Q authorizes the City Council to adopt ordinances to regulate cannabis retail uses;

WHEREAS, on June 15, 2021, the City Council adopted Ordinance No. 21-08 and No. 21-09 to amend Titles 9 and 13 of the Costa Mesa Municipal Code (CMMC) to establish regulations for cannabis retail uses;

WHEREAS, at the July 18, 2023 City Council meeting, a Councilmember requested that an item be agenzized to discuss the potential for exploring amendments to the City's cannabis ordinances in response to public input;

WHEREAS, on September 5, 2023, the City Council directed the Planning Commission to explore potential amendments to the City's cannabis retail storefront provisions specific to eight topics;

WHEREAS, the Planning Commission discussed potential amendments to the City's cannabis retail storefront provisions at the November 27, 2023, December 11, 2023, and January 22, 2024, Planning Commission meetings;

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

1. Adoption of this resolution is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) in that there is no possibility that the minor updates to the City's retail cannabis storefront provisions will have a significant impact on the environment.

2. The Planning Commission recommends the City Council approve the amendments to Title 9, Licenses and Business Regulations of the Costa Mesa Municipal Code, as attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the CEQA exemption for this project reflects the independent judgement of the City.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the document in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 22nd day of January, 2024.

Adam Ereth, Chair
Costa Mesa Planning Commission

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

I, Scott Drapkin, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. PC-2024-XX was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on January 22, 2024 by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

Scott Drapkin, Secretary
Costa Mesa Planning Commission

Resolution No. PC-2024-XX

EXHIBIT A**CHAPTER IX. SPECIAL LAND USE REGULATIONS. ARTICLE 21. LOCATION OF CANNABIS DISTRIBUTING, MANUFACTURING, RESEARCH AND DEVELOPMENT, TESTING LABORATORIES, RETAIL STOREFRONT AND RETAIL NON-STOREFRONT USES****13-200.90. Purpose.**

The purpose of this article is to regulate the location of and standards for cannabis distributing facilities, manufacturing sites, research and development laboratories, testing laboratories, retail storefront and retail non-storefront uses 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 cannabis businesses.

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 or in this title, the terms used in this article shall have the meaning ascribed to them in Title 9, Chapter VI of this Code.

13-200.92. Cannabis distributing facilities, manufacturing sites, research and development laboratories, and testing laboratories.

- (a) Cannabis distribution, manufacturing, 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 both north of South Coast Drive and west of Harbor Boulevard, excluding any portion of the South Coast Collection (the "Green Zone").
- (b) A conditional use permit shall be required and may be issued to allow the location of any business engaged in the distribution, manufacturing, researching and developing, or testing of cannabis in the MP or PDI zones pursuant to subsection (a) of this section, subject to the following conditions:
 - (1) The requirements of Chapter III of this title have been met;
 - (2) The findings for granting a conditional use permit in accordance with section 13-29(g) are met;
 - (3) The applicant obtains a cannabis business license pursuant to Chapter VI of Title 9 of this Code; and
 - (4) 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.

13-200.93. Cannabis retail storefront and non-storefront uses.

- (a) Cannabis retail storefront uses are prohibited in all zone districts within the city, except for the commercial zone districts.
- (b) Cannabis retail non-storefront uses are prohibited in all zone districts within the city, except for the commercial zone districts and within the Green Zone.
- (c) The following planning application shall be required for cannabis retail uses:
 - (1) A conditional use permit shall be required for retail storefronts and non-storefronts; and
 - (2) An amendment to the approved conditional use permit shall be required for existing licensed cannabis distribution or manufacturing businesses to operate a retail non-storefront under the existing business and within the same licensed premise. The amendment shall be processed as a minor conditional use permit.
- (d) A conditional use permit may be issued to allow the location of a retail cannabis use pursuant to subsections (a) and (b) of this section, subject to the following conditions:
 - (1) The requirements of Chapter III of this title have been met;
 - (2) The findings for granting conditional use permit pursuant to section 13-29(g) are met;
 - (3) The applicant pursuant to Chapter VI of Title 9 of this Code; and
 - (4) The use is conducted in compliance with all applicable state and local laws, regulations, and all applicable conditional use permit conditions of approval.
- (e) A total maximum of thirty (30) conditional use permits for cannabis storefronts may be approved by the city. Following the approval of the thirtieth (30th), no further conditional use permits for cannabis storefronts may be approved by the city until the total number of existing conditional use permits falls below fifteen (15), after which time the city may approve further conditional use permits not to exceed a total of fifteen (15) existing conditional use permits for cannabis storefronts located within the city.
- (f) Cannabis retail storefront location.
 - (1) No cannabis retail storefront use shall be located within one-thousand (1,000) feet from a K-12 school, playground, child daycare, homeless shelter, or youth center, that is in operation at the time of submission of a completed Cannabis Business Permit application, or within one hundred (100) feet from a property zoned for residential use;
 - i. For the purpose of identifying separations from cannabis storefronts and properties zoned for residential use, properties zoned for residential use are within the following zoning districts: R1 Single-Family Residential District, R2-MD Multiple-Family Residential District, Medium Density, R2-HD Multiple-Family Residential District, High Density, R3 Multiple-Family Residential District, TC Town Center District, PDR-LD Planned Density Residential—Low Density, PDR-MD Planned Development Residential—Medium Density, PDR-HD Planned Development Residential—High Density, and PDR-NCM Planned Development Residential—North Costa Mesa.
 - ii. Where a non-residential property was developed for residential or mixed residential use in accordance with an overlay, urban plan, or specific plan,

and the residential development and use remains, the property would be considered residential when establishing a separation from cannabis storefronts.

- iii. Where an overlay, urban plan, or specific plan allows residential development on a property zoned for residential use, but residential development has not been constructed, such property would not be considered a property zoned for residential use pursuant to this provision.
 - iv. Where a legal nonconforming residential unit or units have been developed on a property zoned for non-residential use, the property would not be considered residential when establishing a separation from cannabis storefronts.
- (2) No cannabis retail storefront use shall be located within five hundred (500) feet from the premises of a lawfully existing cannabis retail storefront business;
- (3) All distances referenced in (f)(1) and (2) shall be measured in a straight line from the premises where the cannabis retail use is to be located to the closest property line of a K-12 school, playground, child daycare, homeless shelter, ~~or~~ youth center or property zoned for residential use, or from the premises of a lawfully existing cannabis retail storefront use.
- i. For purposes of this sub-sub-section, the property line of a playground shall be a thirty (30) foot radius from the exterior physical boundaries of the playground equipment area;
- (4) All distances shall be measured without regard to the boundaries of the city and and/or intervening structures or other barriers;
- (5) At a property as for which the zoning administrator, director or planning commission determines, based on a preponderance of the evidence, that unpermitted and/or illegal cannabis activity involving sales, delivery and/or dispensing has taken place at any time in the 365 days preceding an application under this Article. If an unpermitted and/or illegal cannabis activity has existed on a property no cannabis business may be permitted on that property unless 365 days has elapsed since that unpermitted and/or illegal cannabis activity has vacated the property, and the owner of that property has compensated the City for any and all expenditure of public funds and resources, including all costs, expenses (including but not limited to the salaries of peace and/or code enforcement officers) and/or attorney's fees, incurred in investigating, abating or attempting to abate the unpermitted use or uses, whether or not any type of civil, criminal or administrative proceedings have been commenced against the property, provided however if the owner of the property is required to evict that use, the 365 days shall begin to run from the date of the filing of an unlawful detainer complaint, in which case the a permit may be issued after the 365 days had elapsed and that use is no longer occupying the property.
- (6) A determination and/or finding under sub-section (e)(4) is subject to the appeal provisions of Chapter IX of Title 2 of this Code.
- (7) The nonconforming provisions contained in Chapter X of this Code pertain to cannabis uses except under the following:
- i. When an approved retail cannabis storefront conditional use permit location which lawfully met separation requirements at the time of the submission of a cannabis business permit application for the subject

property does not conform to the separation and the permitted cannabis retail operation is discontinued or abandoned for more than one hundred eighty (180) days, or when a permitted cannabis use is replaced in whole or part for any period of time by any other use, the conditional use permit shall be null and void.

- (g) Retail storefront uses shall be subject to the following development standards in addition to those contained in Chapter VI of Title 9:
 - (1) Opaque window coverings unless required by the City for security purposes are prohibited;
 - (2) Permanent security or safety bars shall not be placed on any interior or exterior windows or door, unless required by the City for security purposes;
 - (3) Directional signage to the use including but not limited to A-frame signs, sandwich board signs, banners, or flags are prohibited;
 - (4) No use shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way;
 - (5) Uses shall comply with the landscaping requirements set forth in Chapter VII of this title including bringing the site landscaping into conformance when feasible as determined by the director;
 - (6) Parking requirements shall be subject to Section 13-89;
 - (7) The hours of operation may be established as part of the planning application subject to the final review authority and may be more restrictive than those set forth in Chapter VI of Title 9. Modification of operation hours when established as part of the planning application shall be subject to an amendment of the planning application;
 - (8) Drive-through services or walk-up window services are prohibited;
 - (9) Outdoor seating or patio areas are prohibited;
 - (10) Special events that include live entertainment, dancing, and/or amplified music, or that are otherwise visible and/or audible from the public right-of-way, are prohibited;
 - (11) All cannabis products shall be secured after business hours in a locked container under 24-hour video surveillance; and
 - (12) For uses within two hundred (200) feet of a residential zone, all exterior lighting shall be shielded and/or directed away from residential areas. In addition, trash facilities shall be screened from view and designed and located appropriately to minimize potential noise and odor impacts to adjacent residential areas.
- (h) Non-storefront uses shall be subject to the following development standards in addition to those contained in Chapter VI of Title 9:
 - (1) Uses may operate independently from a retail storefront or as a part of, and in conjunction with, a permitted storefront, distribution, or manufacturing facility;
 - (2) Parking requirements shall be subject to Section 13-89 and shall also include sufficient parking spaces for delivery vehicles;
 - (3) All deliveries to customers shall be completed by 10:00 p.m.; and
 - (4) The general public shall not be permitted to enter the premises of a non-storefront retail use.

- (i) Except as specifically authorized in this article, all other cannabis retail uses such as but not limited to lounges and cafes are expressly prohibited in the city.
- (j) 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.
- (k) Any cannabis use, including but not limited to those involving sale, delivery and/or dispensing, that is not permitted, licensed and otherwise in full compliance with all applicable provisions of this Code and state and local law, shall not be considered a legally non-conforming use pursuant to, and notwithstanding any contrary provisions of, Chapter IX of this title.

13-200.94. 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.

13-200.95. Violations.

Violations of this article shall be punishable pursuant to the provisions of section 13-16 in addition to any other remedy available at law or in equity.

EXHIBIT A**CHAPTER VI. CANNABIS BUSINESS PERMITS****9-481. Purpose and intent.**

It is the purpose and intent of this chapter to regulate the distributing, manufacturing, processing, research and development, retail sale, 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 cannabis business within the city. Nothing in this chapter is intended to authorize the possession, use, or provision of cannabis 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.

9-482. Legal authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution and the provisions of Division 10 of the Business and Professions Code, the city is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity.

9-482.5 Authority of the City Manager

The City Manager is authorized to make reasonable rules, policies, and procedures consistent with the intent and spirit of this Chapter as may be necessary to administer and enforce the provisions of this Chapter and any other ordinances, regulations or laws relating to and affecting the permitting and operations of commercial cannabis businesses.

The City Manager is authorized to make reasonable rules, policies, and procedures consistent with the intent and spirit of this Chapter concerning the applications, the application process, the information required of applicants, the application procedures, and the administration and procedures to be used and followed in the application process for permit applications and requests for permit changes or modifications pursuant to this Chapter, and the implementation and administration of social equity programs.

9-483. Cannabis 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, furnishing, distribution, delivery, or sale of cannabis or a cannabis product is expressly prohibited in the city.

9-484. Compliance with laws.

It is the responsibility of the owners and operators of the cannabis 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.

9-485. Definitions.

Unless otherwise defined in this chapter or in chapter I of Title 13, the words used in this chapter shall have the same definitions ascribed to them in Division 10 of the Business and Professions Code or the definitions of the Health and Safety Code applicable to school and child daycare. 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 and 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 and Safety Code.

Cannabis business permit means a regulatory permit issued by the city pursuant to this chapter to a cannabis business, and is required before any cannabis activity may be conducted in the city.

Cannabis goods means cannabis and/or cannabis products.

Cannabis product or *manufactured cannabis product* or *product* means cannabis that has undergone a process whereby the plant material is transformed into a concentrate for internal consumption or topical application, including, but not limited to, concentrated cannabis, an edible cannabis product, or a topical cannabis product containing cannabis or concentrated cannabis in combination with other ingredients.

Caregiver or *primary caregiver* has the same meaning as that term is defined in section 11362.7 of the California Health and Safety Code.

City manager shall mean the city manager of the city or designee.

Director shall mean the city’s Director of the Economic and Development Services department or designee, unless otherwise specified.

Dispensing means any activity involving the retail sale of cannabis or cannabis products.

Distributor means a person or entity that engages in distribution. The direct and/or retail sale, distribution, or furnishing of any cannabis or cannabis product to any consumer or end user by a distributor is expressly prohibited, unless otherwise authorized pursuant to this chapter.

Edible cannabis product means manufactured cannabis that is intended to be used, in whole or in part, for oral human consumption including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by California Health and Safety Code Section 109935 or a drug as defined by California Health and Safety Code Section 109925.

Free sample means any amount of cannabis goods provided to a patron of a business or member of the public without cost or payment or exchange for any other thing of value.

Green Zone means those portions of the manufacturing park (MP) and planned development industrial (PDI) zones that are located both north of South Coast Drive and west of Harbor Boulevard, excluding any portion of the South Coast Collection.

Homeless shelter has the same meaning as *emergency shelter*.

Labor Peace Agreement has the same meaning set forth in Business and Professions Code section 26001.

Manufacturing site means a location where cannabis products are manufactured.

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

Marijuana activity and/or *cannabis activity* includes manufacture, processing, laboratory testing, research and development, transporting, delivery, dispensing, distribution, furnishing, giving away or sale or any other activity involving cannabis or a cannabis product.

Marijuana business and/or *cannabis business* means any business or operation which engages in any marijuana or cannabis activity.

Marijuana business permit has the same meaning as *cannabis business permit*.

Patient or *qualified patient* shall have the same definition as California Health and 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 and Safety Code section 11362.5. For purposes of this chapter, a qualified patient shall include a person with an identification card as that term is defined by California Health and Safety Code section 11362.7 et seq.

Person with an identification card shall have the meaning given that term by California Health and Safety Code section 11362.7.

Playground shall mean and include both a public playground located in a city park and a private playground. A private playground shall mean a privately-owned outdoor recreation area, including a tot lot, containing playground equipment or amenities such as swings, slides, sandboxes, or similar installations designed for use by minors and serving either the general public or residents of a development where the playground equipment is located, including residential subdivisions and/or

developments such as apartments, townhomes and/or condominium complexes, mobile home parks or other similar residential uses, as well as playground equipment serving registered guests at hotels and motels. A private playground does not include a playground or playground equipment installed at a single-family residence, or play equipment that is part of a privately-owned commercial business or place of worship, or a playground that is access-controlled during operating hours or does not have direct access from the public right-of-way. A private playground does not include areas designated for use as a playing field or court, pool, or skate facility.

Premises shall have the same meaning as set forth in Business and Professions Code section 26001 sub-section (ap) for purposes of measuring the required distance from retail storefront uses to those uses set forth in section 13-200.93(e)(1).

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

Property shall mean any single development lot that has been subdivided bearing its own assessor's parcel number or with an approved subdivision map or condominium map unless the context clearly indicates a different meaning.

Research and development laboratory means a facility, entity, or site in the city that performs research into and/or the development of cannabis or 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 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 cannabis business permit for laboratory testing from the city and is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and cannabis activities.

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 means the State of California, including any of its departments, divisions, and/or bureaus.

State license means a permit or license issued by the state to engage in cannabis activity.

Youth center means any public or private facility that is primarily used to host recreation or social activities for minors, specifically private youth membership organizations or clubs, social services teenage club facilities, video arcades where ten (10) or more games or game machines or devices are operated or similar amusement park facilities, but does not include dance studios, tutoring, martial arts studios or similar type of uses.

9-486. Type of authorized cannabis businesses permitted.

- (a) One (1) or more of the following types of adult (A-license) and/or medical (M-license) cannabis business may be permitted to operate within the city:
 - 1. Cannabis distributor (includes license classification type 11);
 - 2. Cannabis manufacturer (includes license classification type 6 and 7);
 - 3. Cannabis testing laboratory (includes license classification type 8);
 - 4. Cannabis retail - storefront (includes license classification type 10);
 - 5. Cannabis retail - non-storefront (includes license classification type 9); and
 - 6. Cannabis research and development laboratory.
- (b) Businesses permitted pursuant to this chapter shall not engage in the retail sale, delivery or dispensing of cannabis, cannabis product, hemp or hemp products unless expressly permitted to do so pursuant to the terms of their cannabis business permit.
- (c) No person may engage in any type of cannabis business that is not specifically authorized pursuant to this section and this code, including, but not limited to, cultivating cannabis.
- (d) The City Council may by resolution limit and/or restrict the number of cannabis retail permits available for issuance and/or renewal.

9-487. Cannabis business permit required to engage in a cannabis business.

No person may engage in any cannabis business or in any cannabis activity within the city including manufacturing, processing, laboratory testing, transporting, dispensing, distribution, or sale of cannabis or a cannabis product unless the person: 1) has a valid cannabis business permit from the city that authorizes the specific business and activity at specific location; 2) has a valid business license issued to the entity that is listed on the cannabis business permit; and 3) is currently in compliance with all other applicable state and local laws and regulations pertaining to the cannabis business and cannabis activity.

9-487.5. Change in business name.

No operator shall operate, conduct, manage, engage in, or carry on a cannabis business under any name other than the business name specified in the permit and/or any “doing business as” or “DBA”, or “fictitious business name” or “FBN”, provided in the permit application and/or business license. Proof of the “DBA” or “FBN” filing with the County Clerk Recorder shall be required. Any approved changes and/or updates to the permit may require payment of fees as set by resolution of the City Council.

9-488. Term of permit-Fees.

- (a) A cannabis business permit shall be valid for two (2) years from the date of issue, unless otherwise suspended or revoked, and may be renewed bi-annually thereafter, provided the permittee and application for renewal are in compliance with all of the provisions of this chapter as well as all administrative regulations adopted pursuant to section 9-497.
- (b) Cannabis business permit application fees and renewal fees shall be established by resolution of the city council as may be amended from time to time. Failure to timely submit fees and/or comply with the administrative regulations governing applications and/or renewals shall be grounds for denial of application and/or renewal.

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 cannabis business to operate within the city, until the State of California, or its respective departments or divisions, reinstates or reissues the State license within 90 days. Should the state license remain suspended for 90 days or longer, any permit issued pursuant to this chapter shall expire and be of no further force and effect. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a business permitted pursuant to this chapter including the persons and entities set forth in section 9-490(c) to operate any cannabis business within the city for a period of five years from the date of such revocation or termination.

9-490. Denial and revocation.

- (a) Revocation. A cannabis business permit may be revoked and/or suspended pursuant to the procedures of section 9-120, and/or deemed abandoned or forfeited pursuant to the procedures of section 9-495, for failing to comply with the terms of the permit, the applicable provisions of this chapter, this Code, city regulations, state law or regulations and/or any conditions of any other permit issued pursuant to this Code.
- (b) Denial. An application for a cannabis business permit may be denied where it fails to provide all required information, documentation and/or fees and/or where it does not or would not be able to comply with the applicable provisions of this chapter, this Code, city regulations and/or state law or regulations and/or where the applicant is otherwise ineligible for such permit.
- (c) Effect of revocation and denial. Whenever an application for a permit is denied, no other similar application by such applicant or permittee will be considered for a period of one (1) year from the date of the denial of an application. Whenever a permit has been revoked, no other similar application by such permittee shall be considered for a period of five (5) years from either the date the notice of the permit revocation was mailed or the date of the final decision of the city to revoke the permit, whichever is later. The prohibitions of this subsection shall also apply to the following:
 - 1. Any individual whose permit was revoked or whose application was denied who later becomes a director or officer of a corporation, profit or nonprofit, or a member of a partnership or a person owning or possessing any portion of the shares of a corporation seeking to obtain a new permit.
 - 2. A corporation, profit or nonprofit, whose permit was revoked, or application was denied, to any of its directors or officers or to any person who owned any portion of its shares, who attempts by way of a new corporation or using their individual names or becoming a member of a partnership or a director or officer or a person owning or possessing any portion of the shares in another corporation seeking to obtain a new permit.
- (d) Ineligibility. In addition to any other law, no person or entity shall be eligible for and/or receive a cannabis business permit if that person or entity, or any director or officer of that entity or a person who owned any portion of that entity's shares, engaged or engages in unpermitted and/or illegal cannabis activity involving sales, delivery and/or dispensing in

the city, or had an ownership interest in any property set forth in section 13-200.93(e)(5), in the five (5) years preceding an application under this chapter or during the application process. A determination of ineligibility under this sub-section (d) may be made by the City Manager and shall be based on the preponderance of the evidence. This prohibition shall not apply to a natural person who would otherwise be ineligible based on a criminal conviction that has been dismissed, withdrawn, expunged or set aside or is otherwise exempted pursuant to sections 9-495(g)(10) and/or 9-496(b).

9-491. Appeals.

Notwithstanding any other provision of this code, only a decision by the city manager to suspend, revoke or deny a cannabis business permit under this chapter shall be subject to appeal, which shall be governed by the procedures set forth in Chapter IX of Title 2 of this code.

9-492. Prohibition on transfer of cannabis business permits.

In the event a permit holding cannabis business sells or transfers the business to a new owner and/or operates the business under a new entity and/or name not listed on the permit, the new owner must obtain a new cannabis business permit and business license prior to commencing or continuing operations. A cannabis business shall be deemed to have transferred to a new owner within the meaning of this section if person(s) or entities with controlling interest at the time the permit was first issued cease(s) at any time to possess controlling ownership interest and/or an ownership interest of less than fifty-one (51) percent.

9-493. City business license required.

Prior to commencing operations, a cannabis business shall obtain and thereafter maintain a valid city business license pursuant to Chapter I of this title. Failure to hold a valid business license at all times shall render the cannabis business permit invalid.

9-494. Conditional use permit required.

No cannabis business permit shall be issued, and no person shall conduct a cannabis business unless a conditional use permit has been issued therefore pursuant to the provisions of Title 13, Chapter IX, Article 21 of this Code. Approval of a conditional use permit shall not waive any other requirements of State or local law or regulation, including, but not limited, to the requirement to obtain a building permit, certificate of occupancy, cannabis business permit and/or city business license.

9.494.5 Maximum cannabis retail storefront cannabis business permits.

A maximum of thirty (30) cannabis business permits may be issued by the City. Thereafter, no further cannabis business permits may be issued by the City until the total number of operating licensed retail storefront establishments fall below fifteen (15), after which time the City may issue further cannabis business permits not to exceed fifteen (15) total active cannabis business permits operating at one time.

9-495. Operating requirements for all cannabis businesses permitted under this chapter.

(a) *Records and recordkeeping.*

1. Each owner and operator of a cannabis 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 cannabis business permit issued pursuant to this title), or at any time upon reasonable request of the city, each cannabis business shall file a sworn statement detailing the number of sales by the cannabis business during the previous twelve (12) 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.
Each owner and operator shall keep and preserve for a period of no less than seven (7) years, all records as may be necessary to determine the amount of such tax the operator may have been liable to collect and remit to the city.
2. Each owner and operator of a cannabis business shall maintain a current register of the names and the contact information (including the name, address, telephone number, a copy of that person's government issued identification, and email address) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this paragraph shall be provided to the city manager upon a reasonable request.
3. All cannabis 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 (HIPAA), each cannabis 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 cannabis 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 cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the cannabis business. These security measures shall include:
 - a. Establishing limited access areas accessible only to authorized cannabis business personnel;
 - b. All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault, and shall be kept in a manner as to prevent diversion, theft, and loss;
 - c. Sensors shall be installed to detect entry and exit from all secure areas;
 - d. Having a professionally installed, maintained, and monitored alarm system;

- e. Any bars to be installed on the windows or the doors of the cannabis business for security purposes, if permitted by the city, shall be installed only on the interior of the building;
 - f. Security personnel if utilized must be licensed by the State of California Bureau of Security and Investigative Services Personnel, shall comply with the requirements of California Business and Professions Code Chapters 11.4 and 11.5 of Division 3, and have a valid business license from the city; and
 - g. Each cannabis 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.
2. Each cannabis business shall identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the city manager regarding any security related measures or and operational issues.
 3. A cannabis business shall notify the city manager within twenty-four (24) hours after discovering any of the following:
 - a. Significant discrepancies identified during inventory, as set forth in the city’s administrative regulations;
 - b. Diversion, theft, loss, or any criminal activity involving the cannabis business or any agent or employee of the cannabis business; or
 - c. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the cannabis business and/or cannabis sales.
- (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 cannabis business.
 - (d) *Compliance with laws.* It is the responsibility of the owners and operators of the cannabis 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 cannabis business or any site-specific, additional operating procedures or requirements which may be imposed as conditions of approval of the location of the cannabis business.
 - (e) *Taxes.* All cannabis 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 cannabis business shall cooperate with the city with respect to any reasonable request to audit the cannabis business’s 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 rated at least A-:VIII in A.M. Best and Company’s Insurance Guide and either admitted and

authorized to do business in California or is listed on the California Department of Insurance's List of Approved Surplus Line Insurers.

(g) *Miscellaneous operating requirements.*

1. *Restriction on consumption.* Cannabis shall not be consumed on the premises of any cannabis 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 cannabis business permit, or on any of the vehicles owned or used as part of the cannabis 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 cannabis business shall have in place a point-of-sale tracking system to track and report on all aspects of the cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The cannabis 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 city manager.
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 all state and local regulations.
5. There shall not be a physician located in or around any cannabis business at any time for the purpose of evaluating patients for the issuance of a cannabis prescription or card.
6. *Signage, notices, and advertising.*
 - a. In addition to the requirements otherwise set forth in this section, business identification signage for a cannabis business shall conform to the requirements of this Code, including, but not limited to, seeking the issuance of a city sign permit.
 - b. Each entrance to a cannabis retail business shall be visibly posted with one clear and legible notice up to twelve (12) inches by eighteen (18) inches in size, indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited. The word "cannabis" is allowed to be used up to two times on each of these specific notices. Letter height in the notice shall be limited to up to one (1) inch in size. All notice lettering shall be the same font and color.
 - c. Business identification signage shall be limited to that needed for identification only.
 - d. The business shall at all times comply with the advertising and marketing restrictions of Business and Professions Code sections 26150-26156, in addition to the requirements of this code.
 - e. Cannabis business advertising and/or marketing materials in the city shall not encourage persons under 21 years of age to consume cannabis or cannabis products and shall not depict and/or suggest in any way the consumption of cannabis or cannabis products.

7. *Minors.*

- a. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis business, except as otherwise specifically provided for by state law. It is unlawful and a violation of this chapter for any person to employ any person at or for a cannabis business who is not at least twenty-one (21) years of age.
 - b. The entrance to the cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the cannabis business except as specifically provided for herein.
8. *Odor control.* Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site.
 9. *Display of permit and city business license.* The original copy of the cannabis business permit issued by the city pursuant to this chapter and the city-issued business license shall be posted inside the cannabis business in a conspicuous location.
 10. *Background check.* Every owner, manager, supervisor or employee of the cannabis business must submit fingerprints and other information deemed necessary by the city manager 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 cannabis business who has been convicted of a felony within the past seven (7) years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code section 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance. Exempted from this prohibition is a conviction for a felony involving cannabis and/or marijuana for which the underlying cannabis or marijuana offense has subsequently been designated a misdemeanor or infraction or decriminalized pursuant to the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act or federal law.
 11. *Loitering.* The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
 12. *Permits and other approvals.* Prior to the establishment of any cannabis business or the operation of any such business, the person intending to establish a cannabis 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 cannabis business intends to operate.
 13. *Free samples.* No cannabis business shall provide or cause to be provided any free sample of cannabis goods to any person within the city.
 14. A licensed retailer may only sell cannabis goods, cannabis accessories, and licensees' branded merchandise or promotional materials
- (h) *Additional operating requirements for retail sale (storefront) businesses.* In addition to every other requirement of this section, other than those set forth in subsection (i) (*retail sale, non-storefront*) that are expressly inapplicable, every business that sells cannabis as a storefront retailer shall comply with the following requirements:

1. The security plan shall include at least one (1) licensed private security guard or guards who shall be present at the premises twenty-four (24) hours per day, exterior lighting, and continuous video monitoring and recording of the interior and exterior of the premises. Video surveillance recordings must also include video of all entryways and exits of the premises. All video recordings shall be maintained for a minimum of ninety (90) days.
2. Both the private security guard and the business personnel shall monitor the premises and the immediate vicinity of the premises to ensure that patrons immediately leave the premises and do not consume cannabis in the vicinity of the retail business or on the property or in the parking lot, and shall ensure that persons do not loiter, linger, or otherwise congregate within fifty (50) feet of the entrance to the premises.
3. There shall be no on-site sales of alcohol or tobacco products, (excluding rolling papers and lighters) and no on-site consumption of food, alcohol, cannabis or tobacco by patrons.
4. Hours of operation shall be limited to: 7:00 a.m. to 10:00 p.m. daily. No licensed retail business shall be open to the public between the hours of 10:01 p.m. and 6:59 a.m. of any day.
5. The cannabis retail business shall notify patrons of the following both verbally and through posting of a sign in a conspicuous location:
 - a. Unlawful sale, barter or distribution of cannabis is a crime and subject to a fine or arrest.
 - b. Loitering on and around the retail premises is prohibited by California Penal Code section 647 and that patrons must immediately leave the premises and not consume cannabis in the vicinity and/or on the property or in the parking lot.
 - c. A warning that patrons and/or employees may be subject to prosecution under federal cannabis laws, if applicable.
 - d. That the use of cannabis may impair a person's ability to drive a motor vehicle or operate machinery and that doing so is illegal.
6. No one under the age of twenty-one (21) shall be allowed to enter the premises of a cannabis business unless the business holds a retail medical cannabis license (M-license) issued by the State.
7. No person shall be permitted to enter the premises without government-issued identification, and cannabis goods may not be provided to any person, whether by purchase, trade, gift, or otherwise, who does not possess a valid government-issued identification and who does not meet the age requirements of this Chapter.
8. Electronic age verification device required. Proof of age of every person other than employees entering the business shall be verified with an electronic age verification device, prior to entry of the retail area or delivery to that person. The electronic age verification device may be mobile or fixed, and shall be able to retain a log of all scans that includes the following information: date, time, and age. Said log shall be kept for a minimum of one hundred eighty (180) business days and all records shall be made available to the City Manager upon request.
9. Point-of-sale tracking required. The business shall facilitate the sale, making available, furnishing and/or delivery of cannabis goods with a technology platform

that uses point-of-sale technology to track, and database technology to record and store, the following information for each transaction involving the exchange of cannabis goods between the business and consumer:

- a. The date and time of transaction.
 - b. The first name and employee number of the employee who processed the sale of cannabis goods on behalf of the business.
 - c. A list of all the cannabis goods purchased, including the quantity purchased.
 - d. The total amount paid for the sale, including the individual prices paid for cannabis or cannabis products purchased, and any amounts paid for taxes.
10. Cannabis retail businesses shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.
 11. Adequate signage shall clearly state who has inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location.
 12. Shipments of cannabis goods may only be accepted during regular business hours.
 13. Inventory shall be secured using a lockable storage system during non-business hours.
 14. No cannabis product shall be visible from the exterior of the business.
 15. All required labelling shall be maintained on all product, as required by State law, at all times.
 16. A permitted commercial cannabis retail business shall have one hundred eighty (180) days after permit issuance by the city to commence operations, after which the permit shall be void and of no further force and effect. A cannabis retail business shall be considered nonoperational and abandoned after failing to report income and/or reporting no income to the city in any one quarter, ceasing to operate, losing the right to occupy the permitted premises or otherwise failing to maintain an ongoing permitted business at the premises for a total of ninety (90) days in any twelve (12) month period. A notice of determination of abandonment shall be delivered to the premises of the retail business and is subject to appeal pursuant to Chapter IX of Title 2. The forgoing notwithstanding, a permitted commercial cannabis business may temporarily suspend operations for a period of time not to exceed ninety (90) days as may be reasonably required to affect upgrades, modifications, repairs, and/or to remedy other real property related problems, as approved in writing by the director or city manager.
 17. Obtain and maintain at all times during the term of the permit the insurance required pursuant to subsection (f) of this section in the minimum amounts of two million dollars (\$2,000,000.00), and enter into an agreement approved by the city attorney to defend, with attorneys of city's choosing, indemnify, release and hold harmless the city, its city council, boards, commissions, officers and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the permittee or the permittee's activities. This indemnification shall include, but not be limited to, damages awarded against the city, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the permittee, city, and/or the parties initiating or

bringing such proceeding, and shall not be limited by the types and/or amounts of insurance required herein;

18. For an applicant with two or more employees, provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement as otherwise required by Business and Professions Code section 26105.5.

(i) *Additional operating requirements for retail sale (non-storefront) delivery businesses.* In addition to every other requirement of this section, except only for subsection (h)(1) through (5) and (10) (*retail sale, store-front*), every business that sells and/or delivers cannabis as a non-store front retailer shall comply with the following requirements:

1. Commercial cannabis retail deliveries may be made only from a commercial cannabis retail business permitted by the City in compliance with this chapter, and in compliance with all State regulations.
2. All employees who deliver cannabis shall have valid identification and a copy of the retail business' cannabis business permit and State license at all times while making deliveries.
3. All commercial cannabis retail businesses shall maintain proof of vehicle insurance for any and all vehicles being used to transport cannabis goods as required by State law.
4. Deliveries may only take place during normal business hours of the commercial cannabis retail business.
5. During delivery, the delivery employee shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers. The delivery request documentation shall comply with State law.
6. A licensed delivery employee shall not leave the State of California while possessing cannabis products while performing his or her duties for the cannabis retailer.
7. A commercial cannabis retail business shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by the State.
8. A manifest with all information required in this section shall accompany any delivery person at all times during the delivery process and delivery hours.
9. Any delivery method shall be made in compliance with State law, as amended, including use of a vehicle that has a dedicated GPS device for identifying the location of the vehicle (cell phones and tablets are not sufficient).
10. Each delivery request shall have a receipt prepared by the commercial cannabis retail business with the following information:
 - a. Name and address of the commercial cannabis retail business.
 - b. The name of the employee who delivered the order.
 - c. The date and time the delivery request was made.
 - d. The complete delivery addresses.

- e. A detailed description of the cannabis goods requested for delivery including the weight or volume, or any accurate measure of the amount of cannabis goods requested.
 - f. The total amount paid for the delivery including any fees or taxes.
 - g. At the time of the delivery, the date and time delivery was made, and the signature of the person who received the delivery.
 - h. No cannabis delivery vehicle shall display signs, decals or any other form of advertisement.
 - i. Inspections by an authorized City representative may be conducted anytime during regular business hours.
11. Delivery must be made to a physical address that is not on publicly owned land, a school, a day care, or a youth center.
 12. The delivery employee shall not carry cannabis goods valued in excess of \$5,000 at any time with no more than \$3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.
 13. Delivery must be made in person by a direct employee of the licensed retailer. An independent contractor, third-party courier service, or an individual employed through a staffing agency would not be considered directly employed by the licensed retailer.

9-496. Cannabis employees.

- (a) Any person who is an employee or who otherwise works within a cannabis business must be legally authorized to do so under applicable state law.
- (b) No cannabis business or owner thereof may employ any person who has been convicted of a felony within the past seven (7) years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code section 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance. Exempted from this prohibition is a conviction for a felony involving cannabis and/or marijuana for which the underlying cannabis or marijuana offense has subsequently been designated a misdemeanor or infraction or decriminalized pursuant to the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act or federal law.
- (c) All employees must wear an identification badge while on the premises of the business, in a format authorized by the city manager.

9-497. Promulgation of administrative regulations.

- (a) The city manager is also authorized to establish any additional administrative rules, regulations, policies, procedures and/or standards governing the issuance, denial or renewal of cannabis business permits, or concerning any other subject necessary to carry out the purposes of this chapter.
- (b) Regulations promulgated by the city manager shall become effective upon the date of publication. Cannabis businesses shall be required to comply with all state and local laws and regulations, including, but not limited to, any rules, regulations policies, procedures and/or standards adopted by the city manager.

- (c) Such administrative rules, regulations and/or standards may include establishing standards and timing for application processing, including but not limited to providing priority for existing licensees in good standing.

9-498. Inspection and enforcement.

- (a) The city manager is charged with enforcing the provisions of the Costa Mesa Municipal Code, or any provision thereof, and may enter the location of a cannabis business at any time during the hours of operation without notice, and inspect the location of any cannabis 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 cannabis 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 cannabis 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 cannabis business under this chapter or under state or local law.

9-499. 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 cannabis business or persons related to, or associated with, the cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the city manager, or the chief of police, may take immediate action to temporarily suspend a cannabis 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 (\$1,000.00) 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.

CHAPTER IX. SPECIAL LAND USE REGULATIONS. ARTICLE 21. LOCATION OF CANNABIS DISTRIBUTING, MANUFACTURING, RESEARCH AND DEVELOPMENT, TESTING LABORATORIES, RETAIL STOREFRONT AND RETAIL NON-STOREFRONT USES

13-200.90. Purpose.

The purpose of this article is to regulate the location of and standards for cannabis distributing facilities, manufacturing sites, research and development laboratories, testing laboratories, retail storefront and retail non-storefront uses 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 cannabis businesses.

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 or in this title, the terms used in this article shall have the meaning ascribed to them in Title 9, Chapter VI of this Code.

13-200.92. Cannabis distributing facilities, manufacturing sites, research and development laboratories, and testing laboratories.

- (a) Cannabis distribution, manufacturing, 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 both north of South Coast Drive and west of Harbor Boulevard, excluding any portion of the South Coast Collection (the “Green Zone”).
- (b) A conditional use permit shall be required and may be issued to allow the location of any business engaged in the distribution, manufacturing, researching and developing, or testing of cannabis in the MP or PDI zones pursuant to subsection (a) of this section, subject to the following conditions:
 - (1) The requirements of Chapter III of this title have been met;
 - (2) The findings for granting a conditional use permit in accordance with section 13-29(g) are met;
 - (3) The applicant obtains a cannabis business license pursuant to Chapter VI of Title 9 of this Code; and
 - (4) 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.

13-200.93. Cannabis retail storefront and non-storefront uses.

- (a) Cannabis retail storefront uses are prohibited in all zone districts within the city, except for the commercial zone districts.
- (b) Cannabis retail non-storefront uses are prohibited in all zone districts within the city, except for the commercial zone districts and within the Green Zone.
- (c) The following planning application shall be required for cannabis retail uses:
 - (1) A conditional use permit shall be required for retail storefronts and non-storefronts; and
 - (2) An amendment to the approved conditional use permit shall be required for existing licensed cannabis distribution or manufacturing businesses to operate a retail non-storefront under the existing business and within the same licensed premise. The amendment shall be processed as a minor conditional use permit.
- (d) A conditional use permit may be issued to allow the location of a retail cannabis use pursuant to subsections (a) and (b) of this section, subject to the following conditions:
 - (1) The requirements of Chapter III of this title have been met;
 - (2) The findings for granting conditional use permit pursuant to section 13-29(g) are met;
 - (3) The applicant pursuant to Chapter VI of Title 9 of this Code; and
 - (4) The use is conducted in compliance with all applicable state and local laws, regulations, and all applicable conditional use permit conditions of approval.
- (e) A total maximum of thirty (30) conditional use permits for cannabis storefronts may be approved by the city. Following the approval of the thirtieth (30th), no further conditional use permits for cannabis storefronts may be approved by the city until the total number of existing conditional use permits falls below fifteen (15), after which time the city may approve further conditional use permits not to exceed a total of fifteen (15) existing conditional use permits for cannabis storefronts located within the city.
- (f) Cannabis retail storefront location. No cannabis retail storefront use shall be located:
 - (1) No cannabis retail storefront use shall be located within one-thousand (1,000) feet from a K-12 school, playground, child daycare, homeless shelter, or within 600 feet from a youth center, that is in operation at the time of submission of a completed Cannabis Business Permit application; or within one hundred (100) feet from a property zoned for residential use;
 - i. For the purpose of identifying separations from cannabis storefronts and properties zoned for residential use, properties zoned for residential use are within the following zoning districts: R1 Single-Family Residential District, R2-MD Multiple-Family Residential District, Medium Density, R2-HD Multiple-Family Residential District, High Density, R3 Multiple-Family Residential District, TC Town Center District, PDR-LD Planned Density Residential—Low Density, PDR-MD Planned Development Residential—Medium Density, PDR-HD Planned Development Residential—High Density, and PDR-NCM Planned Development Residential—North Costa Mesa.
 - ii. Where a non-residential property was developed for residential or mixed residential use in accordance with an overlay, urban plan, or specific plan, and the residential development and use remains, the property

- would be considered residential when establishing a separation from cannabis storefronts.
- iii. Where an overlay, urban plan, or specific plan allows residential development on a property zoned for residential use, but residential development has not been constructed, such property would not be considered a property zoned for residential use pursuant to this provision.
 - iv. Where a legal nonconforming residential unit or units have been developed on a property zoned for non-residential use, the property would not be considered residential when establishing a separation from cannabis storefronts.
- (2) No cannabis retail storefront use shall be located within five hundred (500) feet from the premises of a lawfully existing cannabis retail storefront business;
 - (3) ~~(2)~~ All sensitive use separation distances referenced in (f)(1) and (2) shall be measured in a straight line from the premises where the cannabis retail use is to be located to the closest property line of a K-12 school, playground, child daycare, homeless shelter, or youth center or property zoned for residential use, or from the premises of a lawfully existing cannabis retail storefront use.
 - i. For purposes of this sub-sub-section, the property line of a playground shall be a thirty (30) foot radius from the exterior physical boundaries of the playground equipment area;
 - (4) ~~(3)~~ All distances shall be measured without regard to the boundaries of the city and and/or intervening structures or other barriers;
 - (5) ~~(4)~~ At a property as for which the zoning administrator, director or planning commission determines, based on a preponderance of the evidence, that unpermitted and/or illegal cannabis activity involving sales, delivery and/or dispensing has taken place at any time in the 365 days preceding an application under this Article. If an unpermitted and/or illegal cannabis activity has existed on a property no cannabis business may be permitted on that property unless 365 days has elapsed since that unpermitted and/or illegal cannabis activity has vacated the property, and the owner of that property has compensated the City for any and all expenditure of public funds and resources, including all costs, expenses (including but not limited to the salaries of peace and/or code enforcement officers) and/or attorney's fees, incurred in investigating, abating or attempting to abate the unpermitted use or uses, whether or not any type of civil, criminal or administrative proceedings have been commenced against the property, provided however if the owner of the property is required to evict that use, the 365 days shall begin to run from the date of the filing of an unlawful detainer complaint, in which case the a permit may be issued after the 365 days had elapsed and that use is no longer occupying the property.
 - (6) ~~(5)~~ A determination and/or finding under sub-section (e)(4) is subject to the appeal provisions of Chapter IX of Title 2 of this Code.
 - (7) The nonconforming provisions contained in Chapter X of this Code pertain to cannabis uses except under the following:
 - i. When an approved retail cannabis storefront conditional use permit location which lawfully met separation requirements at the time of the submission of a cannabis business permit application for the subject

property does not conform to the separation and the permitted cannabis retail operation is discontinued or abandoned for more than one hundred eighty (180) days, or when a permitted cannabis use is replaced in whole or part for any period of time by any other use, the conditional use permit shall be null and void.

- (g) Retail storefront uses shall be subject to the following development standards in addition to those contained in Chapter VI of Title 9:
- (1) Opaque window coverings unless required by the City for security purposes are prohibited;
 - (2) Permanent security or safety bars shall not be placed on any interior or exterior windows or door, unless required by the City for security purposes;
 - (3) Directional signage to the use including but not limited to A-frame signs, sandwich board signs, banners, or flags are prohibited;
 - (4) No use shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way;
 - (5) Uses shall comply with the landscaping requirements set forth in Chapter VII of this title including bringing the site landscaping into conformance when feasible as determined by the director;
 - (6) Parking requirements shall be subject to Section 13-89;
 - (7) The hours of operation may be established as part of the planning application subject to the final review authority and may be more restrictive than those set forth in Chapter VI of Title 9. Modification of operation hours when established as part of the planning application shall be subject to an amendment of the planning application;
 - (8) Drive-through services or walk-up window services are prohibited;
 - (9) Outdoor seating or patio areas are prohibited;
 - (10) Special events that include live entertainment, dancing, and/or amplified music, or that are otherwise visible and/or audible from the public right-of-way, are prohibited;
 - (11) All cannabis products shall be secured after business hours in a locked container under 24-hour video surveillance; and
 - (12) For uses within two hundred (200) feet of a residential zone, all exterior lighting shall be shielded and/or directed away from residential areas. In addition, trash facilities shall be screened from view and designed and located appropriately to minimize potential noise and odor impacts to adjacent residential areas.
- (h) Non-storefront uses shall be subject to the following development standards in addition to those contained in Chapter VI of Title 9:
- (1) Uses may operate independently from a retail storefront or as a part of, and in conjunction with, a permitted storefront, distribution, or manufacturing facility;
 - (2) Parking requirements shall be subject to Section 13-89 and shall also include sufficient parking spaces for delivery vehicles;
 - (3) All deliveries to customers shall be completed by 10:00 p.m.; and
 - (4) The general public shall not be permitted to enter the premises of a non-storefront retail use.

- (i) Except as specifically authorized in this article, all other cannabis retail uses such as but not limited to lounges and cafes are expressly prohibited in the city.
- (j) 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.
- (k) Any cannabis use, including but not limited to those involving sale, delivery and/or dispensing, that is not permitted, licensed and otherwise in full compliance with all applicable provisions of this Code and state and local law, shall not be considered a legally non-conforming use pursuant to, and notwithstanding any contrary provisions of, Chapter IX of this title.

13-200.94. 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.

13-200.95. Violations.

Violations of this article shall be punishable pursuant to the provisions of section 13-16 in addition to any other remedy available at law or in equity.

CHAPTER VI. CANNABIS BUSINESS PERMITS**9-481. Purpose and intent.**

It is the purpose and intent of this chapter to regulate the distributing, manufacturing, processing, research and development, retail sale, 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 cannabis business within the city. Nothing in this chapter is intended to authorize the possession, use, or provision of cannabis 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.

9-482. Legal authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution and the provisions of Division 10 of the Business and Professions Code, the city is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity.

9-482.5 Authority of the City Manager

The City Manager is authorized to make reasonable rules, policies, and procedures consistent with the intent and spirit of this Chapter as may be necessary to administer and enforce the provisions of this Chapter and any other ordinances, regulations or laws relating to and affecting the permitting and operations of commercial cannabis businesses.

The City Manager is authorized to make reasonable rules, policies, and procedures consistent with the intent and spirit of this Chapter concerning the applications, the application process, the information required of applicants, the application procedures, and the administration and procedures to be used and followed in the application process for permit applications and requests for permit changes or modifications pursuant to this Chapter, and the implementation and administration of social equity programs.

9-483. Cannabis 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, furnishing, distribution, delivery, or sale of cannabis or a cannabis product is expressly prohibited in the city.

9-484. Compliance with laws.

It is the responsibility of the owners and operators of the cannabis 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.

9-485. Definitions.

Unless otherwise defined in this chapter or in chapter I of Title 13, the words used in this chapter shall have the same definitions ascribed to them in Division 10 of the Business and Professions Code or the definitions of the Health and Safety Code applicable to school and child daycare. 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 and 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 and Safety Code.

Cannabis business permit means a regulatory permit issued by the city pursuant to this chapter to a cannabis business, and is required before any cannabis activity may be conducted in the city.

Cannabis goods means cannabis and/or cannabis products.

Cannabis product or *manufactured cannabis product* or *product* means cannabis that has undergone a process whereby the plant material is transformed into a concentrate for internal consumption or topical application, including, but not limited to, concentrated cannabis, an edible cannabis product, or a topical cannabis product containing cannabis or concentrated cannabis in combination with other ingredients.

Caregiver or *primary caregiver* has the same meaning as that term is defined in section 11362.7 of the California Health and Safety Code.

City manager shall mean the city manager of the city or designee.

Director shall mean the city’s Director of the Economic and Development Services department or designee, unless otherwise specified.

Dispensing means any activity involving the retail sale of cannabis or cannabis products.

Distributor means a person or entity that engages in distribution. The direct and/or retail sale, distribution, or furnishing of any cannabis or cannabis product to any consumer or end user by a distributor is expressly prohibited, unless otherwise authorized pursuant to this chapter.

Edible cannabis product means manufactured cannabis that is intended to be used, in whole or in part, for oral human consumption including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by California Health and Safety Code Section 109935 or a drug as defined by California Health and Safety Code Section 109925.

Free sample means any amount of cannabis goods provided to a patron of a business or member of the public without cost or payment or exchange for any other thing of value.

Green Zone means those portions of the manufacturing park (MP) and planned development industrial (PDI) zones that are located both north of South Coast Drive and west of Harbor Boulevard, excluding any portion of the South Coast Collection.

Homeless shelter has the same meaning as *emergency shelter*.

Labor Peace Agreement has the same meaning set forth in Business and Professions Code section 26001.

Manufacturing site means a location where cannabis products are manufactured.

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

Marijuana activity and/or *cannabis activity* includes manufacture, processing, laboratory testing, research and development, transporting, delivery, dispensing, distribution, furnishing, giving away or sale or any other activity involving cannabis or a cannabis product.

Marijuana business and/or *cannabis business* means any business or operation which engages in any marijuana or cannabis activity.

Marijuana business permit has the same meaning as *cannabis business permit*.

Patient or *qualified patient* shall have the same definition as California Health and 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 and Safety Code section 11362.5. For purposes of this chapter, a qualified patient shall include a person with an identification card as that term is defined by California Health and Safety Code section 11362.7 et seq.

Person with an identification card shall have the meaning given that term by California Health and Safety Code section 11362.7.

Playground shall mean and include both a public playground located in a city park and a private playground. A private playground shall mean a privately-owned outdoor recreation area, including a tot lot, containing playground equipment or amenities such as swings, slides, sandboxes, or similar installations designed for use by minors and serving either the general public or residents of a development where the playground equipment is located, including residential subdivisions and/or developments such as apartments, townhomes and/or condominium complexes, mobile home parks or other similar residential uses, as well as playground equipment serving registered guests at hotels and motels. A private playground does not include a playground or playground equipment installed at a single-family residence, or play equipment that is part of a privately-owned commercial business or place of worship, or a playground that is access-controlled during operating hours or does not have direct access from the public right-of-way. A private playground does not include areas designated for use as a playing field or court, pool, or skate facility.

Premises shall have the same meaning as set forth in Business and Professions Code section 26001 sub-section (ap) for purposes of measuring the required distance from retail storefront uses to those uses set forth in section 13-200.93(e)(1).

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

Property shall mean any single development lot that has been subdivided bearing its own assessor's parcel number or with an approved subdivision map or condominium map unless the context clearly indicates a different meaning.

Research and development laboratory means a facility, entity, or site in the city that performs research into and/or the development of cannabis or 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 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 cannabis business permit for laboratory testing from the city and is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and cannabis activities.

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 means the State of California, including any of its departments, divisions, and/or bureaus.

State license means a permit or license issued by the state to engage in cannabis activity.

Youth center means any public or private facility that is primarily used to host recreation or social activities for minors, specifically private youth membership organizations or clubs, social services teenage club facilities, video arcades where ten (10) or more games or game machines or devices are operated or similar amusement park facilities, but does not include dance studios, tutoring, martial arts studios or similar type of uses.

9-486. Type of authorized cannabis businesses permitted.

(a) One (1) or more of the following types of adult (A-license) and/or medical (M-license) cannabis business may be permitted to operate within the city:

1. Cannabis distributor (includes license classification type 11);
2. Cannabis manufacturer (includes license classification type 6 and 7);
3. Cannabis testing laboratory (includes license classification type 8);
4. Cannabis retail - storefront (includes license classification type 10);
5. Cannabis retail - non-storefront (includes license classification type 9); and
6. Cannabis research and development laboratory.

- (b) Businesses permitted pursuant to this chapter shall not engage in the retail sale, delivery or dispensing of cannabis, cannabis product, hemp or hemp products unless expressly permitted to do so pursuant to the terms of their cannabis business permit.
- (c) No person may engage in any type of cannabis business that is not specifically authorized pursuant to this section and this code, including, but not limited to, cultivating cannabis.
- (d) The City Council may by resolution limit and/or restrict the number of cannabis retail permits available for issuance and/or renewal.

9-487. Cannabis business permit required to engage in a cannabis business.

No person may engage in any cannabis business or in any cannabis activity within the city including manufacturing, processing, laboratory testing, transporting, dispensing, distribution, or sale of cannabis or a cannabis product unless the person: 1) has a valid cannabis business permit from the city that authorizes the specific business and activity at specific location; 2) has a valid business license issued to the entity that is listed on the cannabis business permit; and 3) is currently in compliance with all other applicable state and local laws and regulations pertaining to the cannabis business and cannabis activity.

9-487.5. Change in business name.

No operator shall operate, conduct, manage, engage in, or carry on a cannabis business under any name other than the business name specified in the permit and/or any “doing business as” or “DBA”, or “fictitious business name” or “FBN”, provided in the permit application and/or business license. Proof of the “DBA” or “FBN” filing with the County Clerk Recorder shall be required. Any approved changes and/or updates to the permit may require payment of fees as set by resolution of the City Council.

9-488. Term of permit-Fees.

- (a) A cannabis business permit shall be valid for two (2) years from the date of issue, unless otherwise suspended or revoked, and may be renewed bi-annually thereafter, provided the permittee and application for renewal are ~~is~~ in compliance with all of the provisions of this chapter as well as all administrative regulations adopted pursuant to section 9-497.
- (b) Cannabis business permit application fees and renewal fees shall be established by resolution of the city council as may be amended from time to time. Failure to timely submit fees and/or comply with the administrative regulations governing applications and/or renewals shall be grounds for denial of application and/or renewal.

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 cannabis business to operate within the city, until the State of California, or its respective departments or divisions, reinstates or reissues the State license within 90 days. Should the state license remain suspended for 90 days or longer, any permit issued pursuant to this chapter shall expire and be of no further force and effect. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a business permitted pursuant to this chapter including the persons and entities set forth in section 9-490(c) to operate any cannabis business within the city for a period of five years from the date of such revocation or termination.

9-490. Denial and revocation.

- (a) Revocation. A cannabis business permit may be revoked and/or suspended pursuant to the procedures of section 9-120, and/or deemed abandoned or forfeited pursuant to the procedures of section 9-495, for failing to comply with the terms of the permit, the applicable provisions of this chapter, this Code, city regulations, state law or regulations and/or any conditions of any other permit issued pursuant to this Code.
- (b) Denial. An application for a cannabis business permit may be denied where it fails to provide all required information, documentation and/or fees and/or where it does not or would not be able to comply with the applicable provisions of this chapter, this Code, city regulations and/or state law or regulations and/or where the applicant is otherwise ineligible for such permit.
- (c) Effect of revocation and denial. Whenever an application for a permit is denied, no other similar application by such applicant or permittee will be considered for a period of one (1) year from the date of the denial of an application. Whenever a permit has been revoked, no other similar application by such permittee shall be considered for a period of five (5) years from either the date the notice of the permit revocation was mailed or the date of the final decision of the city to revoke the permit, whichever is later. The prohibitions of this subsection shall also apply to the following:
 - 1. Any individual whose permit was revoked or whose application was denied who later becomes a director or officer of a corporation, profit or nonprofit, or a member of a partnership or a person owning or possessing any portion of the shares of a corporation seeking to obtain a new permit.
 - 2. A corporation, profit or nonprofit, whose permit was revoked, or application was denied, to any of its directors or officers or to any person who owned any portion of its shares, who attempts by way of a new corporation or using their individual names or becoming a member of a partnership or a director or officer or a person owning or possessing any portion of the shares in another corporation seeking to obtain a new permit.
- (d) Ineligibility. In addition to any other law, no person or entity shall be eligible for and/or receive a cannabis business permit if that person or entity, or any director or officer of that entity or a person who owned any portion of that entity's shares, engaged or engages in unpermitted and/or illegal cannabis activity involving sales, delivery and/or dispensing in the city, or had an ownership interest in any property set forth in section 13-200.93(e)(5), in the five (5) years preceding an application under this chapter or during the application process. A determination of ineligibility under this sub-section (d) may be made by the City Manager and shall be based on the preponderance of the evidence. This prohibition shall not apply to a natural person who would otherwise be ineligible based on a criminal conviction that has been dismissed, withdrawn, expunged or set aside or is otherwise exempted pursuant to sections 9-495(g)(10) and/or 9-496(b).

9-491. Appeals.

Notwithstanding any other provision of this code, only a decision by the city manager to suspend, revoke or deny a cannabis business permit under this chapter shall be subject to appeal, which shall be governed by the procedures set forth in Chapter IX of Title 2 of this code.

9-492. Prohibition on transfer of cannabis business permits.

In the event a permit holding cannabis business sells or transfers the business to a new owner and/or operates the business under a new entity and/or name not listed on the permit, the new owner must obtain a new cannabis business permit and business license prior to commencing or continuing operations. A cannabis business shall be deemed to have transferred to a new owner within the meaning of this section if person(s) or entities with controlling interest at the time the permit was first issued cease(s) at any time to possess controlling ownership interest and/or an ownership interest of less than fifty-one (51) percent.

9-493. City business license required.

Prior to commencing operations, a cannabis business shall obtain and thereafter maintain a valid city business license pursuant to Chapter I of this title. Failure to ~~do so will~~ hold a valid business license at all times shall render the cannabis business permit invalid.

9-494. Conditional use permit required.

No cannabis business permit shall be issued, and no person shall conduct a cannabis business unless a conditional use permit has been issued therefore pursuant to the provisions of Title 13, Chapter IX, Article 21 of this Code. Approval of a conditional use permit shall not waive any other requirements of State or local law or regulation, including, but not limited, to the requirement to obtain a building permit, certificate of occupancy, cannabis business permit and/or city business license.

9.494.5 Maximum cannabis retail storefront cannabis business permits.

A maximum of thirty (30) cannabis business permits may be issued by the City. Thereafter, no further cannabis business permits may be issued by the City until the total number of operating licensed retail storefront establishments fall below fifteen (15), after which time the City may issue further cannabis business permits not to exceed fifteen (15) total active cannabis business permits operating at one time.

9-495. Operating requirements for all cannabis businesses permitted under this chapter.

(a) *Records and recordkeeping.*

1. Each owner and operator of a cannabis 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 cannabis business permit issued pursuant to this title), or at any time upon reasonable request of the city, each cannabis business shall file a sworn statement detailing the number of sales by the cannabis business during the previous twelve (12) 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.
Each owner and operator shall keep and preserve for a period of no less than seven (7) years, all records as may be necessary to determine the amount of such tax the operator may have been liable to collect and remit to the city.
2. Each owner and operator of a cannabis business shall maintain a current register of the names and the contact information (including the name, address, telephone number, a copy of that person's government issued identification, and email address) of anyone

owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this paragraph shall be provided to the city manager upon a reasonable request.

3. All cannabis 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 (HIPAA), each cannabis 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 cannabis 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 cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the cannabis business. These security measures shall include:
 - a. Establishing limited access areas accessible only to authorized cannabis business personnel;
 - b. All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault, and shall be kept in a manner as to prevent diversion, theft, and loss;
 - c. Sensors shall be installed to detect entry and exit from all secure areas;
 - d. Having a professionally installed, maintained, and monitored alarm system;
 - e. Any bars to be installed on the windows or the doors of the cannabis business for security purposes, if permitted by the city, shall be installed only on the interior of the building;
 - f. Security personnel if utilized must be licensed by the State of California Bureau of Security and Investigative Services Personnel, shall comply with the requirements of California Business and Professions Code Chapters 11.4 and 11.5 of Division 3, and have a valid business license from the city; and
 - g. Each cannabis 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.
2. Each cannabis business shall identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the city manager regarding any security related measures or and operational issues.
3. A cannabis business shall notify the city manager within twenty-four (24) hours after discovering any of the following:
 - a. Significant discrepancies identified during inventory, as set forth in the city's administrative regulations;

- b. Diversion, theft, loss, or any criminal activity involving the cannabis business or any agent or employee of the cannabis business; or
 - c. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the cannabis business and/or cannabis sales.
- (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 cannabis business.
- (d) *Compliance with laws.* It is the responsibility of the owners and operators of the cannabis 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 cannabis business or any site-specific, additional operating procedures or requirements which may be imposed as conditions of approval of the location of the cannabis business.
- (e) *Taxes.* All cannabis 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 cannabis business shall cooperate with the city with respect to any reasonable request to audit the cannabis business's 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 rated at least A-:VIII in A.M. Best and Company's Insurance Guide and either admitted and authorized to do business in California or is listed on the California Department of Insurance's List of Approved Surplus Line Insurers.
- (g) *Miscellaneous operating requirements.*
1. *Restriction on consumption.* Cannabis shall not be consumed on the premises of any cannabis 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 cannabis business permit, or on any of the vehicles owned or used as part of the cannabis 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 cannabis business shall have in place a point-of-sale tracking system to track and report on all aspects of the cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The cannabis 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 city manager.

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 all state and local regulations.
5. There shall not be a physician located in or around any cannabis business at any time for the purpose of evaluating patients for the issuance of a cannabis prescription or card.
6. *Signage, ~~and~~ notices, and advertising.*
 - a. In addition to the requirements otherwise set forth in this section, business identification signage for a cannabis business shall conform to the requirements of this Code, including, but not limited to, seeking the issuance of a city sign permit.
 - b. Each entrance to a cannabis retail business shall be visibly posted with a one clear and legible notice up to twelve (12) inches by eighteen (18) inches in size, indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited. The word “cannabis” is allowed to be used up to two times on each of these specific notices. Letter height in the notice shall be limited to up to one (1) inch in size. All notice lettering shall be the same font and color.
 - c. Business identification signage shall be limited to that needed for identification only.
 - d. The business shall at all times comply with the advertising and marketing restrictions of Business and Professions Code sections 26150-26156, in addition to the requirements of this code.
 - e. Cannabis business advertising and/or marketing materials in the city shall not encourage persons under 21 years of age to consume cannabis or cannabis products and shall not depict and/or suggest in any way the consumption of cannabis or cannabis products.
7. *Minors.*
 - a. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis business, except as otherwise specifically provided for by state law. It is unlawful and a violation of this chapter for any person to employ any person at or for a cannabis business who is not at least twenty-one (21) years of age.
 - b. The entrance to the cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the cannabis business except as specifically provided for herein.
8. *Odor control.* Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site.
9. *Display of permit and city business license.* The original copy of the cannabis business permit issued by the city pursuant to this chapter and the city-issued business license shall be posted inside the cannabis business in a conspicuous location.
10. *Background check.* Every owner, manager, supervisor or employee of the cannabis business must submit fingerprints and other information deemed necessary by the city manager 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 cannabis

business who has been convicted of a felony within the past seven (7) years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code section 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance. Exempted from this prohibition is a conviction for a felony involving cannabis and/or marijuana for which the underlying cannabis or marijuana offense has subsequently been designated a misdemeanor or infraction or decriminalized pursuant to the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act or federal law.

11. *Loitering.* The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
12. *Permits and other approvals.* Prior to the establishment of any cannabis business or the operation of any such business, the person intending to establish a cannabis 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 cannabis business intends to operate.
13. *Free samples.* No cannabis business shall provide or cause to be provided any free sample of cannabis goods to any person within the city.
14. A licensed retailer may only sell cannabis goods, cannabis accessories, and licensees' branded merchandise or promotional materials

(h) *Additional operating requirements for retail sale (storefront) businesses.* In addition to every other requirement of this section, other than those set forth in subsection (i) (*retail sale, non-storefront*) that are expressly inapplicable, every business that sells cannabis as a storefront retailer shall comply with the following requirements:

1. The security plan shall include at least one (1) licensed private security guard or guards who shall be present at the premises twenty-four (24) hours per day, exterior lighting, and continuous video monitoring and recording of the interior and exterior of the premises. Video surveillance recordings must also include video of all entryways and exits of the premises. All video recordings shall be maintained for a minimum of ninety (90) days.
2. Both the private security guard and the business personnel shall monitor the premises and the immediate vicinity of the premises to ensure that patrons immediately leave the premises and do not consume cannabis in the vicinity of the retail business or on the property or in the parking lot, and shall ensure that persons do not loiter, linger, or otherwise congregate within fifty (50) feet of the entrance to the premises.
3. There shall be no on-site sales of alcohol or tobacco products, (excluding rolling papers and lighters) and no on-site consumption of food, alcohol, cannabis or tobacco by patrons.
4. Hours of operation shall be limited to: 7:00 a.m. to 10:00 p.m. daily. No licensed retail business shall be open to the public between the hours of 10:01 p.m. and 6:59 a.m. of any day.
5. The cannabis retail business shall notify patrons of the following both verbally and through posting of a sign in a conspicuous location:
 - a. Unlawful sale, barter or distribution of cannabis is a crime and subject to a fine or arrest.

- b. Loitering on and around the retail premises is prohibited by California Penal Code section 647 and that patrons must immediately leave the premises and not consume cannabis in the vicinity and/or on the property or in the parking lot.
 - c. A warning that patrons and/or employees may be subject to prosecution under federal cannabis laws, if applicable.
 - d. That the use of cannabis may impair a person's ability to drive a motor vehicle or operate machinery and that doing so is illegal.
6. No one under the age of twenty-one (21) shall be allowed to enter the premises of a cannabis business unless the business holds a retail medical cannabis license (M-license) issued by the State.
 7. No person shall be permitted to enter the premises without government-issued identification, and cannabis goods may not be provided to any person, whether by purchase, trade, gift, or otherwise, who does not possess a valid government-issued identification and who does not meet the age requirements of this Chapter.
 8. Electronic age verification device required. Proof of age of every person other than employees entering the business shall be verified with an electronic age verification device, prior to entry of the retail area or delivery to that person. The electronic age verification device may be mobile or fixed, and shall be able to retain a log of all scans that includes the following information: date, time, and age. Said log shall be kept for a minimum of one hundred eighty (180) business days and all records shall be made available to the City Manager upon request.
 9. Point-of-sale tracking required. The business shall facilitate the sale, making available, furnishing and/or delivery of cannabis goods with a technology platform that uses point-of-sale technology to track, and database technology to record and store, the following information for each transaction involving the exchange of cannabis goods between the business and consumer:
 - a. The date and time of transaction.
 - b. The first name and employee number of the employee who processed the sale of cannabis goods on behalf of the business.
 - c. A list of all the cannabis goods purchased, including the quantity purchased.
 - d. The total amount paid for the sale, including the individual prices paid for cannabis or cannabis products purchased, and any amounts paid for taxes.
 10. Cannabis retail businesses shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.
 11. Adequate signage shall clearly state who has inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location.
 12. Shipments of cannabis goods may only be accepted during regular business hours.
 13. Inventory shall be secured using a lockable storage system during non-business hours.
 14. No cannabis product shall be visible from the exterior of the business.
 15. All required labelling shall be maintained on all product, as required by State law, at all times.
 16. A permitted commercial cannabis retail business shall have one hundred eighty (180) days after permit issuance by the city to commence operations, after which the permit shall be void and of no further force and effect. ~~A permitted commercial cannabis retail business that ceases to operate for more than 90 calendar days after commencing operations shall be deemed "abandoned" and the permit shall be forfeited. A permitted~~

~~commercial cannabis business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the director or city manager. A cannabis retail business shall be considered nonoperational and abandoned after failing to report income and/or reporting no income to the city in any one quarter, ceasing to operate, losing the right to occupy the permitted premises or otherwise failing to maintain an on-going permitted business at the premises for a total of ninety (90) days in any twelve (12) month period. A notice of determination of abandonment shall be delivered to the premises of the retail business and is subject to appeal pursuant to Chapter IX of Title 2. The forgoing notwithstanding, a permitted commercial cannabis business may temporarily suspend operations for a period of time not to exceed ninety (90) days as may be reasonably required to affect upgrades, modifications, repairs, and/or to remedy other real property related problems, as approved in writing by the director or city manager.~~ ~~by the end of the 180 day period.~~

17. Obtain and maintain at all times during the term of the permit the insurance required pursuant to subsection (f) of this section in the minimum amounts of two million dollars (\$2,000,000.00), and enter into an agreement approved by the city attorney to defend, with attorneys of city's choosing, indemnify, release and hold harmless the city, its city council, boards, commissions, officers and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the permittee or the permittee's activities. This indemnification shall include, but not be limited to, damages awarded against the city, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the permittee, city, and/or the parties initiating or bringing such proceeding, and shall not be limited by the types and/or amounts of insurance required herein;
 18. For an applicant with two or more employees, provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement as otherwise required by Business and Professions Code section 26105.5.
- (i) *Additional operating requirements for retail sale (non-storefront) delivery businesses.* In addition to every other requirement of this section, except only for subsection (h)(1) through (5) and (10) (*retail sale, store-front*), every business that sells and/or delivers cannabis as a non-store front retailer shall comply with the following requirements:
1. Commercial cannabis retail deliveries may be made only from a commercial cannabis retail business permitted by the City in compliance with this chapter, and in compliance with all State regulations.
 2. All employees who deliver cannabis shall have valid identification and a copy of the retail business' cannabis business permit and State license at all times while making deliveries.
 3. All commercial cannabis retail businesses shall maintain proof of vehicle insurance for any and all vehicles being used to transport cannabis goods as required by State law.

4. Deliveries may only take place during normal business hours of the commercial cannabis retail business.
5. During delivery, the delivery employee shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers. The delivery request documentation shall comply with State law.
6. A licensed delivery employee shall not leave the State of California while possessing cannabis products while performing his or her duties for the cannabis retailer.
7. A commercial cannabis retail business shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by the State.
8. A manifest with all information required in this section shall accompany any delivery person at all times during the delivery process and delivery hours.
9. Any delivery method shall be made in compliance with State law, as amended, including use of a vehicle that has a dedicated GPS device for identifying the location of the vehicle (cell phones and tablets are not sufficient).
10. Each delivery request shall have a receipt prepared by the commercial cannabis retail business with the following information:
 - a. Name and address of the commercial cannabis retail business.
 - b. The name of the employee who delivered the order.
 - c. The date and time the delivery request was made.
 - d. The complete delivery addresses.
 - e. A detailed description of the cannabis goods requested for delivery including the weight or volume, or any accurate measure of the amount of cannabis goods requested.
 - f. The total amount paid for the delivery including any fees or taxes.
 - g. At the time of the delivery, the date and time delivery was made, and the signature of the person who received the delivery.
 - h. No cannabis delivery vehicle shall display signs, decals or any other form of advertisement.
 - i. Inspections by an authorized City representative may be conducted anytime during regular business hours.
11. Delivery must be made to a physical address that is not on publicly owned land, a school, a day care, or a youth center.
12. The delivery employee shall not carry cannabis goods valued in excess of \$5,000 at any time with no more than \$3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.
13. Delivery must be made in person by a direct employee of the licensed retailer. An independent contractor, third-party courier service, or an individual employed through a staffing agency would not be considered directly employed by the licensed retailer.

9-496. Cannabis employees.

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

- (b) No cannabis business or owner thereof may employ any person who has been convicted of a felony within the past seven (7) years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code section 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance. Exempted from this prohibition is a conviction for a felony involving cannabis and/or marijuana for which the underlying cannabis or marijuana offense has subsequently been designated a misdemeanor or infraction or decriminalized pursuant to the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act or federal law.
- (c) All employees must wear an identification badge while on the premises of the business, in a format authorized by the city manager.

9-497. Promulgation of administrative regulations.

- (a) The city manager is also authorized to establish any additional administrative rules, regulations, policies, procedures and/or standards governing the issuance, denial or renewal of cannabis business permits, or concerning any other subject necessary to carry out the purposes of this chapter.
- (b) Regulations promulgated by the city manager shall become effective upon the date of publication. Cannabis businesses shall be required to comply with all state and local laws and regulations, including, but not limited to, any rules, regulations policies, procedures and/or standards adopted by the city manager.
- (c) Such administrative rules, regulations and/or standards may include establishing standards and timing for application processing, including but not limited to providing priority for existing licensees in good standing.

9-498. Inspection and enforcement.

- (a) The city manager is charged with enforcing the provisions of the Costa Mesa Municipal Code, or any provision thereof, and may enter the location of a cannabis business at any time during the hours of operation without notice, and inspect the location of any cannabis 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 cannabis 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 cannabis 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 cannabis business under this chapter or under state or local law.

9-499. 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 cannabis business or persons related to, or associated with, the cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the city manager, or the chief of police, may take immediate action to temporarily suspend a cannabis 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 (\$1,000.00) 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.