

ORDINANCE NO.

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, ESTABLISHING A MORATORIUM ON COMMERCIAL MARIJUANA LAND USES AND ACTIVITIES AND ON OUTDOOR PERSONAL CULTIVATION OF RECREATIONAL MARIJUANA.

WHEREAS, in September of 2015, the Governor signed into law the Medical Cannabis Regulations and Safety Act (“MCRSA”) which established regulations of medical cannabis cultivation, manufacturing and transportation, as well as created local and State-level licensing systems in California; and

WHEREAS, MCRSA allows a city to prohibit, through land use regulation or ordinances, the cultivating, delivering, distributing, selling or processing of medical marijuana; and

WHEREAS, on November 8, 2016, the voters of the State of California (“State”) enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”); and

WHEREAS, subject to certain exceptions, AUMA generally establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of recreational marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana; and

WHEREAS, AUMA also allows local governments to adopt and enforce local ordinances regulating marijuana related land uses, as well as the possession, planting, cultivation, harvesting, testing, drying, and processing of marijuana, including the complete prohibition of such activities; and

WHEREAS, on June 27, 2017, the Governor signed SB 94 into law, creating the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which effectively repealed MCRSA and incorporated certain provisions of MCRSA in the licensing provisions of AUMA, thus integrating the rules for both medicinal cannabis (MCRSA) and adult use of marijuana (AUMA); and

WHEREAS, under MAUCRSA, the City continues to be able to regulate marijuana related land uses, as well as the possession, planting, cultivation, harvesting, testing, drying, and processing of marijuana, including the complete prohibition of such activities; and

1 WHEREAS, MAUCRSA creates a licensing system whereby the State will issue licenses
2 to businesses authorizing them to cultivate, distribute, transport, store, manufacture, process, and
3 sell recreational marijuana and marijuana products for adults 21 years of age and older, with such
4 licenses to be issued by January 1, 2018; and

5 WHEREAS, MAUCRSA mandates that State licensing authorities shall not approve an
6 application for a State license if approval of the State license will violate the provisions of any
7 local ordinance or regulation adopted in accordance with the requirements of AUMA; and

8 WHEREAS, significant concerns have been raised regarding the impacts that possessing,
9 planting, cultivating, harvesting, drying, processing, distributing, transporting, storing,
10 manufacturing, and selling of marijuana (hereinafter "marijuana activities") will have on the public
11 health, safety, and welfare in City, including the protection of environmental resources and
12 neighborhood quality; and

13 WHEREAS, the improper cultivation of marijuana poses an environmental health risk to
14 the public and may create a public nuisance, including without limitation: offensive and irritating
15 odor, degradation of air quality, excessive noise, risk of criminal activity, improper and/or
16 dangerous electrical alterations, and impairment of the general quality of life of property owners
17 and occupants adjoining marijuana cultivation sites; and

18 WHEREAS, prior to the adoption of any regulation under MAUCRSA, adequate security
19 measures should be implemented to ensure that the cultivation, concentration or sale of marijuana
20 in any location or premises does not negatively impact surrounding homes or businesses by
21 increasing nuisance activity such as loitering or crime; and

22 WHEREAS, the adoption of a comprehensive marijuana ordinance that addresses both
23 commercial marijuana activities and outdoor personal cultivation of recreational marijuana will take
24 time and careful consideration and will require input from various community stakeholders and the
25 general public; and

1 WHEREAS, the City has a compelling interest in protecting the public health, safety, and
2 welfare of its residents and businesses, and preserving the peace and integrity of neighborhoods
3 within the City; and

4 WHEREAS, the City has devoted considerable staff time and financial resources towards
5 adopting specific plans and implementing development that is consistent with the City's General
6 Plan; and

7 WHEREAS, the City finds that the issuance of land use permits, building permits,
8 licenses, or other entitlements for commercial marijuana activities and outdoor personal cultivation
9 of recreational marijuana, would pose a current and immediate threat to the public health, safety,
10 and welfare, since such uses could potentially create conflicts with surrounding land uses, and
11 could conflict with the City's long-term planning goals to be implemented through the City's
12 General Plan, Specific Plans, and Zoning Ordinance; and

13 WHEREAS, in order to address community concerns regarding the establishment
14 of commercial marijuana activities and outdoor personal cultivation of recreational marijuana,
15 it is necessary for the City to study the impact such uses will have on the public health, safety
16 and welfare, and potentially revise the City's existing regulations or adopt new regulations; and

17 WHEREAS, to protect the City's investment in its planning efforts, ensure that the City's
18 long-term planning goals and strategies can be achieved in an effective and timely manner, and
19 to avoid a current and immediate threat to the public health, safety, and welfare, the City proposes
20 adopting a moratorium on the issuance of use permits, building permits and all other applicable
21 entitlements for commercial marijuana activities and on the outdoor personal cultivation of
22 recreational marijuana; and

23 WHEREAS, it is necessary to protect the health, safety and welfare, specifically the City
24 and the public's interests in the City's aesthetic, economic, health, safety and community character,
25 until additional staff review has been completed and any necessary local regulations or code

1 revisions have been revised, adopted and otherwise made effective; and

2 WHEREAS, the citizens of the City will benefit from a comprehensive and thoughtful
3 local regulatory scheme that addresses the potential impacts of commercial marijuana activities and
4 outdoor personal cultivation of recreational marijuana; and

5 WHEREAS, there is an immediate need to prevent unregulated commercial marijuana
6 activities in the City, which have the potential to affect the character and aesthetic of the
7 community; and

8 WHEREAS, the California Constitution, Article XI, section 7, provides cities with the
9 authority to enact ordinances to protect the health, safety, and welfare of their citizens, and adoption
10 of zoning regulations are a permissible exercise of this authority; and

11 WHEREAS, Government Code section 65858 authorizes the City Council to adopt as an
12 urgency measure an interim ordinance, effective immediately upon a four-fifths vote of the City
13 Council, to protect the public health, safety, and welfare. The interim ordinance is effective for
14 a period of forty-five (45) days, unless extended pursuant to Government Code section 65858,
15 subdivision (c); and

16 WHEREAS, this interim urgency ordinance is necessary, as stated above, in that there is a
17 current and immediate threat to the public health, safety, and welfare from unregulated marijuana
18 activities; and

19 WHEREAS, this interim urgency ordinance is also necessary to prevent potential
20 grandfathering of commercial marijuana activities and of outdoor personal cultivation of recreational
21 marijuana; and

22 WHEREAS, an interim moratorium on commercial marijuana activities and outdoor
23 personal cultivation of recreational marijuana, is required to allow the City the opportunity to
24 consider the various policy implications of authorizing recreational marijuana activity in the City
25

and to develop a comprehensive approach to regulate marijuana-related activities authorized by

1 MAUCRSA; and

2 WHEREAS, the City finds that laboratory testing facilities licensed by the State would not
3 pose a threat to the public health, safety, and welfare and provide a necessary need for the State in its
4 regulations and as such are hereby exempted from this interim moratorium; and

5 WHEREAS, the existing rules, regulations and ordinances regarding medical marijuana
6 activities and cultivation remain in full force and effect.

7 The City Council of the City of Riverside does ordain as follows:

8 Section 1. Incorporation of Recitals.

9 The above recitals are hereby declared to be true and correct and represent the findings of the
10 City Council, made in the exercise of its independent judgment and that based on the above recitals,
11 there is an immediate threat to the public health, safety and welfare. The adoption of this ordinance
12 is necessary for the immediate protection of the public health, safety and welfare. Said findings are
13 hereby incorporated by reference and made a part of this ordinance.

14 Section 2. Definitions.

15 For the purposes of this ordinance, the following definitions shall apply:

16 (1) The term “commercial marijuana activities” means the cultivation, possession of
17 medical and non-medical marijuana and marijuana products, manufacture, processing, distribution,
18 storing, grading, marketing, packaging, labeling, delivery, transportation, use or sale of marijuana and
19 marijuana products, whether or not through a for-profit or non-profit enterprise, and whether or not
20 conducted with a license issued in accordance with Division 10 of the Business and Professions Code
21 (Business and Professions Code section 26000, et seq.) and MAUCRSA.

22 (2) The term “marijuana” shall mean all items included in Health and Safety Code
23 sections 11018 and 11018.1.

24 (3) The term “indoor cultivation” shall mean cultivation inside a fully enclosed private
25 residence as articulated in Health and Safety Code section 11362.2, subdivision (b)(2).

1 (4) The term “laboratory testing” shall have the meaning articulated in Business and
2 Professions Code section 26100, et seq.

3 (5) The term “laboratory testing facilities” shall mean those facilities licensed under
4 Business and Professions Code section 26100, et seq. and MAUCRSA.

5 (6) The term “outdoor cultivation” shall mean any cultivation that is not defined as
6 indoor cultivation as articulated in Health and Safety Code section 11362.2, subdivision (b)(2).

7 Section 3. Purpose.

8 The purpose of this interim ordinance is to establish a moratorium on the approval or issuance
9 of any land use permit, building permit, business license or any other applicable entitlement or
10 approval for commercial marijuana activities and/or outdoor personal cultivation of recreational
11 marijuana for the immediate preservation of the public health, safety and welfare, excepting therefrom
12 any application, business license or permit for laboratory testing facilities.

13 Section 4. Authority and Findings.

14 Based on the findings set forth in the Recitals and incorporated herein in Section 1, commercial
15 marijuana activities and outdoor personal cultivation of recreational marijuana pose a current and
16 immediate threat to the public health, safety and welfare on the citizens of the City and as such the
17 City Council hereby enacts this interim ordinance by not less than a four-fifths vote, under the
18 authority granted to it by Article XI, Section 7 of the California Constitution and section 65858 of the
19 California Government Code, which allows the City to adopt an interim ordinance prohibiting land
20 uses which may be in conflict with a contemplated general plan, specific plan, or zoning proposal that
21 the City Council, planning commission or the planning department is considering or studying or
22 intends to study within a reasonable time. The City Council hereby directs the Planning Division of
23 the Community & Economic Development Department to consider and study impacts of commercial
24 marijuana activities and outdoor personal cultivation of recreational marijuana and to create a
25 comprehensive ordinance that addresses both.

1 Section 5. Moratorium Imposed.

2 In accordance with the authority granted to the City under Article XI, section 7 of the
3 California Constitution and California Government Code section 65858, from and after the date
4 of this ordinance, a temporary moratorium is hereby established and imposed and the following
5 activities are prohibited and no land use entitlements, building permits, business licenses and any
6 other applicable approval or decisions for commercial marijuana activities, shall be granted for such
7 activities:

8 (1) Any commercial or industrial marijuana activity, which includes but is not limited
9 to cultivation, manufacturing, processing, labeling, storing, distribution, delivery, sales and retail, is
10 prohibited in every zone in the City. This moratorium shall include any commercial or industrial
11 marijuana uses authorized under MAUCRSA.

12 (2) Outdoor personal cultivation of recreational marijuana including, but not limited
13 to, planting, cultivating, harvesting, drying, or processing, is prohibited in every zone in the City.
14 Indoor planting, cultivation, harvesting, drying, or processing of marijuana plants for recreational
15 use is limited to within private residences, is limited to six (6) plants per private residence, and
16 must be entirely for the personal use of a resident of the residence who is twenty-one (21) years
17 of age or older, as permitted in Health and Safety Code sections 11362.1 and 11362.2. The City
18 reserves the right to enact regulations regarding the indoor cultivation of marijuana at a later date.

19 Section 6. Exemption.

20 Laboratory testing facilities licensed by the State will play an integral role in the
21 implementation of MAUCRSA as they would be responsible for issuing certificates of analysis for
22 samples and providing the test results before marijuana can be sold. Laboratory testing facilities do
23 not pose a threat to the public health, safety and welfare and as such are specifically exempt from this
24 moratorium. By not including these uses in the proposed moratorium, staff can immediately begin to
25 monitor the State regulations and prepare any necessary amendments to regulate and allow for

laboratories testing facilities. Transportation, delivery and storage of marijuana exclusively associated with laboratory testing facilities shall also be exempt from this moratorium.

Section 7. Issuance of Land Use Entitlements in Violation of this Moratorium Declared A Public Nuisance.

The issuance of any land use permits, building permits, licenses, or other applicable entitlements for marijuana activities and outdoor personal cultivation of recreational marijuana in the City as defined in this ordinance, during the duration of this moratorium, or any extension thereof, is declared to be a public nuisance. Violations of this ordinance may be enforced by any applicable laws or ordinances, including but not limited to injunctions or administrative or criminal penalties, under the Riverside Municipal Code.

Section 8. Authority; Urgency Statement.

This ordinance is an interim ordinance, adopted as an urgency measure pursuant to Government Code section 65858 and is for the immediate and long-term preservation of the public safety, health, and welfare. The City Council hereby finds that there is a current and immediate threat to the public health, safety and welfare that warrants the establishment of a temporary moratorium on commercial recreational marijuana activities and outdoor personal cultivation of recreational marijuana as described in this ordinance. The following facts support this urgency measure: by establishing and allowing for commercial marijuana activities or outdoor personal cultivation of recreational marijuana in the City, before the City has an opportunity to study and review regulations could lead to conflicts amongst various land uses, conflicts with the City's long-term planning goals, and a potential increase in nuisance and criminal activity within the City, as well as create a deleterious effect on residents' quality of life. Accordingly, the City Council hereby finds that the approval of land use permits, building permits, business licenses, or any other applicable approval or decision for commercial marijuana activities and outdoor personal cultivation of recreational marijuana would result in that threat to public health, safety, or welfare. These

1 findings are based upon all of the facts recited in this ordinance, in the staff report accompanying
2 this ordinance, all matters and information presented to this City Council at its meetings on March
3 7, 2017 and July 25, 2017, and all additional matters and information presented to this City Council
4 at its meeting on September 12, 2017.

5 Section 9. Effective Date and Duration.

6 This ordinance shall become effective immediately upon adoption if adopted by at least four-
7 fifths vote of the City Council, and shall remain in full force and effect for a period of forty-five (45)
8 days from the date of its adoption unless extended by the City Council in accordance with the
9 provisions of California Government Code section 65858.

10 Section 10. Severability.

11 If any provision of this ordinance or the application thereof to any person or circumstance is
12 held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity
13 shall not affect other provisions or applications of this ordinance which can be implemented without
14 the invalid provision or application and to this end the provisions of this ordinance are declared to be
15 severable.

16 Section 11. California Environmental Quality Act.

17 The City hereby finds that this ordinance is not subject to review under the California
18 Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060, subdivision (c)(2)
19 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the
20 environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have
21 a significant effect on the environment). In addition to the foregoing general exemptions, the City
22 Council further finds that this ordinance is categorically exempt from review under CEQA under the
23 Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment),
24 CEQA Guidelines section 15308.
25

1 ADOPTED by the City Council this _____ day of _____, 2017.

2

3 _____
Mayor of the City of Riverside

4 Attest:

5

6 _____
City Clerk of the City of Riverside

7

8 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
9 foregoing ordinance was duly and regularly introduced and adopted at a meeting of the City Council
10 on the _____ day of _____, 2017, by the following vote, to wit:

11 Ayes:

12

13 Noes:

14 Absent:

15 Abstain:

16

17 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
18 City of Riverside, California, this _____ day of _____, 2017.

19

20 _____
City Clerk of the City of Riverside

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