



City of Arts & Innovation

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL** **DATE: OCTOBER 24, 2017**

**FROM: COMMUNITY & ECONOMIC DEVELOPMENT** **WARDS: ALL**  
**DEPARTMENT**

**SUBJECT: PLANNING CASE PSP17-0034 - AN ORDINANCE OF THE CITY OF RIVERSIDE, CALIFORNIA TO EXTEND URGENCY ORDINANCE NO. 7391 ESTABLISHING A MORATORIUM ON COMMERCIAL MARIJUANA LAND USES AND ACTIVITIES AND RECREATIONAL OUTDOOR CULTIVATION**

## **ISSUE:**

Adopt an ordinance extending an existing moratorium on commercial marijuana land use entitlements, building permits, business licenses and any other applicable approvals or decisions for commercial marijuana land uses or activity, and all recreational outdoor cultivation, for a period of 10 months and 15 days from the expiration date of the current 45-day moratorium (October 27, 2017).

## **RECOMMENDATION:**

That City Council adopt, by a four-fifths vote, the attached Ordinance extending the existing Moratorium prohibiting all land use entitlements, building permits, business licenses and any other applicable approval or decisions for commercial marijuana land uses and/or activities, as well as prohibiting all outdoor cultivation of recreation marijuana, but exempting testing laboratories as part of the future marijuana certification process per State licensing.

## **DISCUSSION:**

On September 12, 2017 the City Council adopted an Urgency Ordinance (Ordinance No. 7391) to establish a moratorium prohibiting all land use entitlements, building permits, business licenses and any other applicable approval or decisions for commercial marijuana land uses and/or activities, as well as prohibiting all outdoor cultivation of recreation marijuana, but exempting laboratory testing facilities. This action was taken for the immediate preservation of the public health, safety, and welfare as described in the September 12, 2017 City Council Report. The Urgency Ordinance adopting the initial 45-day temporary moratorium will expire on October 27, 2017, unless the City Council adopts an ordinance to extend the moratorium prior to the expiration date.

### **Measures taken to alleviate conditions since adoption of the Moratorium**

Per State law, the legislative body (City Council) must issue a written report at least 10 days prior to the expiration of the initial 45-day moratorium period. The report must describe measures taken to alleviate the conditions that led to the adoption of the original 45-day urgency ordinance. In

accordance with this requirement, the information listed below shall serve as this report.

In the time since the adoption of the Moratorium, City staff has taken the following actions:

- Continued to meet internally to explore and review the state regulatory framework and best practices from other communities.
- Coordinated with David McPherson of HdL Companies for professional guidance on establishing a local regulatory framework.
- Reviewed the Municipal Code to identify potential amendments.
- Began developing regulations related to marijuana testing laboratories for consideration independent from the moratorium and other commercial marijuana uses.
- Received the following statistics from the local school districts regarding the number of incidents involving marijuana for the last three academic years.

#### **Alvord Unified School District (AUSD)<sup>1</sup>**

<b>School Year</b>	<b>Marijuana Offenses</b>	<b>Total Drug Offenses</b>	<b>% Marijuana-Related</b>
2014-2015	66	99	67%
2015-2016	57	78	73%
2016-2017	81	124	68%

<sup>1</sup>Average enrollment approximately 19,000 students

#### **Riverside Unified School District (RUSD)<sup>2</sup>**

<b>School Year</b>	<b>Marijuana Offenses</b>	<b>Total Drug Offenses</b>	<b>% Marijuana-Related</b>
2014-2015	293	328	89%
2015-2016	181	316	57%
2016-2017	169	205	82%

<sup>2</sup>Average enrollment approximately 42,700 students

Additionally, staff is in the process of preparing a workshop staff report for the November 7, 2017 City Council Hearing. During this workshop staff will provide a brief update on actions taken to date, and will request feedback and direction from City Council on how the City should regulate commercial cannabis uses and activities.

The ordinance to extend the existing moratorium would be effective for a period of no more than 10 months and 15 days (expiring September 11, 2018). Prior to the expiration period the City Council may extend the interim ordinance for one additional year. Any extension shall require a four-fifths vote for adoption, and not more than two extensions may be adopted. Please refer to the attached September 12, 2017 City Council Staff Report for additional information.

#### **REQUIRED ORDINANCE FINDINGS:**

Pursuant to California Government Code Section 65858, in order to protect the public safety, health, and welfare, the City may adopt an urgency ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal that the legislative body, Planning Commission or the Planning Division is considering, studying, or intends to study within a reasonable time.

The existing Municipal Code does not adequately regulate commercial marijuana land uses or activities, nor recreational cultivation. Additional time is needed in order to thoroughly develop appropriate regulations as dictated by the City Council. Therefore it is necessary to adopt an ordinance extending the existing moratorium to preserve the public health, safety and welfare, based on the following findings:

1. Significant concerns have been raised regarding the impacts that possessing, planting, cultivating, harvesting, drying, processing, distributing, transporting, storing, manufacturing, and selling of marijuana will have on public health, safety, and welfare in the City, including the protection of environmental resources and neighborhood quality.
2. It is necessary for the City to protect the public's interests in the aesthetic, economic, health, safety and community character, until additional staff review has been completed and any necessary local regulations or code revisions have been revised, adopted and otherwise made effective.
3. Improper marijuana cultivation poses an environmental health risk to the public and may create a public nuisance, including without limitation: offensive and irritating odor, degradation of air quality, excessive noise, risk of criminal activity, improper and/or dangerous electrical alterations, and impairment of the general quality of life of property owners and occupants adjoining marijuana cultivation sites.
4. Additional time is required to ensure that prior to the adoption of any regulation, adequate security measures are implemented to ensure that the cultivation, concentration or sale of marijuana in any location or premises does not negatively impact surrounding homes or business by increasing nuisance activity such as loitering or crime.
5. The adoption of a comprehensive marijuana ordinance that addresses both commercial marijuana activities and outdoor personal cultivation of recreational marijuana will take time and careful consideration and will require input from various community stakeholders and the general public.
6. The City has a compelling interest in protecting the public health, safety, and welfare of its residents and businesses, and preserving the peace and integrity of neighborhoods within the City.
7. The issuance of land use permits, building permits, licenses, or other entitlements for commercial marijuana activity and outdoor personal cultivation of recreational marijuana, would pose a current and immediate threat to the public health, safety, and welfare, since such uses could potentially create conflicts with surrounding land uses, and could conflict with the City's long-term planning goals to be implemented through the City's General Plan, Specific Plans, and Zoning Ordinance.
8. In order to address community concerns regarding the establishment of commercial marijuana activity and outdoor personal cultivation of recreational marijuana, it is necessary for the City to study the impact such uses will have on the public health, safety and welfare, and potentially adopt new regulations.
9. In order to protect the City's investment in its planning efforts, ensure that the City's long-term planning goals and strategies can be achieved in an effective and timely manner, and to avoid a current and immediate threat to the public health, safety, and welfare it is necessary for the City to study the impact any new regulations regarding commercial

marijuana activities and outdoor personal cultivation of recreational marijuana will have on the public health, safety and welfare.

10. The citizens of the City will benefit from a comprehensive and thoughtful local regulatory scheme that addresses the potential impacts of commercial marijuana activities and outdoor personal cultivation of recreational marijuana.
11. There is an immediate need to prevent unregulated commercial marijuana activities and outdoor personal cultivation of recreational marijuana, which have the potential to affect the character and aesthetic of the community.
12. The issuance of land use permits, building permits, licenses or other entitlements for commercial marijuana activities and outdoor personal cultivation of recreational marijuana would pose a current and immediate threat to the public health, safety, or welfare, since such uses could potentially conflict with the City's long-term planning goals and the development of the City.
13. The adoption of a moratorium is necessary to prevent the potential grandfathering of commercial marijuana activities and outdoor personal cultivation of recreational marijuana.
14. A moratorium on commercial marijuana activity and outdoor personal cultivation of recreational marijuana is required to allow the City the opportunity to consider the various policy implications of authorizing recreational marijuana activity in the City and to develop a comprehensive approach to regulate marijuana-related activities authorized by MAUCRSA.

#### **FISCAL IMPACT:**

There is no impact as a result of the adoption of this moratorium ordinance.

Prepared by: Rafael Guzman, Community & Economic Development Director  
Certified as to  
availability of funds: Adam Raymond, Chief Financial Officer/City Treasurer  
Approved by: Al Zelinka, FAICP Assistant City Manager  
Approved as to form: Gary G. Geuss, City Attorney

#### **Attachment:**

1. Presentation
2. City Council Report – September 12, 2017
3. Ordinance