

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF RIVERSIDE, CALIFORNIA, TO
EXTEND AN URGENCY ORDINANCE ESTABLISHING A MORATORIUM
ON COMMERCIAL MARIJUANA LAND USES AND ACTIVITIES AND
RECREATIONAL OUTDOOR CULTIVATION.

WHEREAS, on September 12, 2017, the City Council adopted an urgency ordinance,
Ordinance No. 7391, establishing 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; and

WHEREAS, since the adoption of the moratorium, staff has continued to meet internally to
explore and review the state regulatory framework and best practices from other communities,
coordinated with consultant HdL Companies for professional guidance on establishing a local
regulatory framework, explored areas within the Municipal Code that need to be considered for
amendments, and began developing regulations related to marijuana testing laboratories for
consideration independent from the moratorium and other commercial marijuana uses; and

WHEREAS, the State is continuing to modify and refine the MAUCRSA regulations; and

WHEREAS, staff supports the decision to extend the moratorium while City Council
considers the various options and to allow staff to prepare any necessary code amendments for future
consideration as well as to allow the State time to refine their regulations and procedures; and

WHEREAS, the existing Municipal Code does not adequately regulate commercial
marijuana land uses or activities, nor recreational cultivation, and additional time is needed in order
to thoroughly develop appropriate regulations as dictated by the City Council; and

WHEREAS, this Ordinance shall extend the existing moratorium for a period of no more
than 10 months and 15 days with an expiration date of September 11, 2018; and

WHEREAS, said extension of the moratorium is necessary 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;

1 2. It is necessary for the City to protect the public's interests in the aesthetic, economic,
2 health, safety and community character, until additional staff review has been completed and any
3 necessary local regulations or code revisions have been revised, adopted and otherwise made
4 effective;

5 3. Improper marijuana cultivation poses an environmental health risk to the public and may
6 create a public nuisance, including without limitation: offensive and irritating odor, degradation of
7 air quality, excessive noise, risk of criminal activity, improper and/or dangerous electrical
8 alterations, and impairment of the general quality of life of property owners and occupants adjoining
9 marijuana cultivation sites;

10 4. Additional time is required to ensure that prior to the adoption of any regulation, adequate
11 security measures are implemented to ensure that the cultivation, concentration or sale of marijuana
12 in any location or premise does not negatively impact surrounding homes or businesses by
13 increasing nuisance activity such as loitering or crime;

14 5. The adoption of a comprehensive marijuana ordinance that addresses both commercial
15 marijuana activities and outdoor personal cultivation of recreational marijuana will take time and
16 careful consideration and will require input from various community stakeholders and the general
17 public;

18 6. The City has a compelling interest in protecting the public health, safety, and welfare of
19 its residents and businesses, and preserving the peace and integrity of neighborhoods within the City;

20 7. The issuance of land use permits, building permits, licenses, or other entitlements for
21 commercial marijuana activity and outdoor personal cultivation of recreational marijuana, would
22 pose a current and immediate threat to the public health, safety, and welfare, since such uses could
23 potentially create conflicts with surrounding land uses, and could conflict with the City's long-term
24 planning goals to be implemented through the City's General Plan, Specific Plans, and Zoning
25 Ordinance;

26 8. In order to address community concerns regarding the establishment of commercial
27 marijuana activity and outdoor personal cultivation of recreational marijuana, it is necessary for the
28 City to study the impact such uses will have on the public health, safety and welfare, and potentially

1 adopt new regulations;

2 9. In order to protect the City's investment in its planning efforts, ensure that the City's
3 long-term planning goals and strategies can be achieved in an effective and timely manner, and to
4 avoid a current and immediate threat to the public health, safety, and welfare it is necessary for the
5 City to study the impact any new regulations regarding commercial marijuana activities and outdoor
6 personal cultivation of recreational marijuana will have on the public health, safety and welfare;

7 10. The citizens of the City will benefit from a comprehensive and thoughtful local
8 regulatory scheme that addresses the potential impacts of commercial marijuana activities and
9 outdoor personal cultivation of recreational marijuana;

10 11. There is an immediate need to prevent unregulated commercial marijuana activities and
11 outdoor personal cultivation of recreational marijuana, which have the potential to affect the
12 character and aesthetic of the community;

13 12. The issuance of land use permits, building permits, licenses or other entitlements for
14 commercial marijuana activities and outdoor personal cultivation of recreational marijuana would
15 pose a current and immediate threat to the public health, safety, or welfare, since such uses could
16 potentially conflict with the City's long-term planning goals and the development of the City;

17 13. The adoption of a moratorium is necessary to prevent the potential grandfathering of
18 commercial marijuana activities and outdoor personal cultivation of recreational marijuana; and

19 14. A moratorium on commercial marijuana activity and outdoor personal cultivation of
20 recreational marijuana is required to allow the City the opportunity to consider the various policy
21 implications of authorizing recreational marijuana activity in the City and to develop a
22 comprehensive approach to regulate marijuana-related activities authorized by MAUCRSA.

23 WHEREAS, California Government Code section 65858 authorizes the City Council to
24 adopt, by a four-fifths vote, without following the procedures otherwise required for the adoption of
25 a zoning ordinance, an interim urgency ordinance prohibiting any uses that may be in conflict with a
26 contemplated general plan, specific plan, or zoning proposal that the City Council, Planning
27 Commission or the Community & Economic Development Department is considering or studying,
28 or intends to study within a reasonable time.

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

2 Section 1: The recitals set forth above are hereby adopted as the findings of the City
3 Council in connection with the adoption of this ordinance and that based on the above recitals, this
4 ordinance is necessary for the immediate protection of the public health, safety and welfare.

5 Section 2: The purpose of this ordinance is to continue a moratorium established by
6 Ordinance No. 7391, and adopted on September 12, 2017, prohibiting all land use entitlements,
7 building permits, business licenses and any other applicable approval or decisions for commercial
8 marijuana land uses and/or activities, as well as prohibiting all outdoor cultivation of recreation
9 marijuana but exempting laboratory testing facilities, for the immediate preservation of the public's
10 health, safety and welfare.

11 Section 3: Based on the findings set forth herein above, the City has a compelling
12 interest to protect the health, safety and welfare, specifically the City and the public's interests, in
13 the City's aesthetic, economic, health, safety and community character, and as such the City Council
14 hereby desires to extend the interim urgency ordinance, by not less than a four-fifths vote, under the
15 authority granted to it by Article XI, Section 7 of the California Constitution and section 65858 of
16 the California Government Code, so as to prohibit land uses which may be in conflict with a
17 contemplated general plan, specific plan, or zoning proposal that the City Council, Planning
18 Commission or the Community Development Department (Planning) is considering or studying or
19 intends to study within a reasonable time. The City Council hereby directs staff to continue to take
20 all actions necessary to establish regulations regarding commercial marijuana land uses and
21 activities and recreational outdoor cultivation.

22 Section 4: The moratorium prohibiting all land use entitlements, building permits,
23 business licenses and any other applicable approval or decisions for commercial marijuana land uses
24 and/or activities, as well as prohibiting all outdoor cultivation of recreational marijuana but
25 exempting laboratory testing facilities, is hereby extended until September 11, 2018. All terms,
26 definitions and findings from Ordinance No. 7391 are hereby incorporated into this Ordinance and
27 made a part of this Ordinance.

28

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

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

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

19 Section 6: Laboratory testing facilities licensed by the State will play an integral role in
20 the implementation of MAUCRSA as they would be responsible for issuing certificates of analysis
21 for samples and providing the test results before marijuana can be sold. Laboratory testing facilities
22 do not pose a threat to the public health, safety and welfare and as such are specifically exempt from
23 this moratorium. By not including these uses in the proposed moratorium, staff can immediately
24 begin to monitor the State regulations and prepare any necessary amendments to regulate and allow
25 for laboratories testing facilities. Transportation, delivery and storage of marijuana exclusively
26 associated with laboratory testing facilities shall also be exempt from this moratorium.

27 Section 7: The issuance of any land use permits, building permits, licenses, or other
28 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: If any provision of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this ordinance which can be implemented without the invalid provision or application and to this end the provisions of this ordinance are declared to be severable.

Section 9: For the term of this ordinance, the provisions of this ordinance shall govern over any conflicting provisions of any other City code, ordinance resolution or policy.

Section 10: The City Council has reviewed the matter and, based upon the facts and information contained in the staff reports, written and oral testimony, hereby finds that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3) and/or 15061(b)(3) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, in that it will not result in a direct or reasonably foreseeable indirect physical change in the environment nor have a significant impact on the environment.

Section 11: The City Clerk shall certify to the adoption of this ordinance and cause publication once in a newspaper of general circulation in accordance with Section 414 of the Charter of the City of Riverside. This ordinance shall become effective on October 24, 2017.

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

Mayor of the City of Riverside

Attest:

City Clerk of the City of Riverside

///

1 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
2 foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the
3 _____ day of _____, 2017, and that thereafter the said ordinance was duly and
4 regularly adopted at a meeting of the City Council on the _____ day of _____, 2017,
5 by the following vote, to wit:

6 Ayes:

7 Noes:

8 Absent:

9 Abstain:

10
11 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
12 City of Riverside, California, this _____ day of _____, 2017.

13
14 _____
15 City Clerk of the City of Riverside
16
17
18
19
20
21
22
23
24
25
26
27
28

\\Rc-Citylawprod\Cycom\Wpdocs\D020\P027\00359694.Docx
17-1207