

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, AMENDING VARIOUS CHAPTERS OF TITLE 19 OF THE RIVERSIDE MUNICIPAL CODE PROHIBITING ALL MARIJUANA USES AND ACTIVITIES.

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 twenty-one (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SB 94 into law, creating the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which effectively repealed MCRSA and incorporated certain provisions of MCRSA in the licensing provisions of AUMA, thus integrating the rules for both medicinal cannabis (MCRSA) and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, significant concerns have been raised regarding the impacts that possessing,
2 planting, cultivating, harvesting, drying, processing, distributing, transporting, storing,
3 manufacturing, and selling of marijuana (hereinafter “marijuana activities”) will have on the public
4 health, safety, and welfare in the City, including the protection of environmental resources and
5 neighborhood quality; and

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

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

14 WHEREAS, the City Council now desires to prohibit all marijuana uses and activities in the
15 City as it relates to personal and medical.

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

17 Section 1. Incorporation of Recitals.

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

23 Section 2. Section 19.147.025 of the Riverside Municipal Code is hereby amended to read
24 as follows:

25 **“19.147.025 Prohibited Uses.**

26 Any use which is listed as prohibited in the adopted Downtown Specific Plan or prohibited by
27 state and/or federal law is ~~also~~ strictly prohibited. Commercial marijuana cultivation, manufacturing,
28 distribution, or sale is also strictly prohibited.”

1 Section 3. Section 19.150.020(A) of the Riverside Municipal Code is hereby amended as
2 shown on Exhibit “A,” attached hereto and incorporated by reference.

3 Section 4. Section 19.220 of the Riverside Municipal Code is hereby amended to read as
4 follows:

5 **“19.220.020 Permitted Land Uses and Development Standards.**

6 For those properties where the Specific Plan Overlay Zone is applied, all permitted use
7 restrictions, development standards, and other applicable standards or regulations governing
8 development as contained within the adopted specific plan shall apply. To the extent that the specific
9 plan does not enumerate use restrictions, development standards, or other applicable regulations, the
10 standards associated with the underlying base zone shall apply. In the event that provisions of the
11 adopted specific plan conflict with or do not correspond with the provisions of the underlying base
12 zone, the provisions as contained in the adopted specific plan shall apply and supersede the underlying
13 base zone requirements, with the exception of marijuana-related uses which shall be exclusively
14 regulated by the underlying zone and are specifically prohibited. Specific Plans shall be prepared and
15 processed to Chapter 19.820 (Specific Plan/Specific Plan Amendments).”

16 Section 5. Chapter 19.342 of the Riverside Municipal Code is hereby repealed in its
17 entirety and replaced with the following:

18 **“Chapter 19.342**

19 **MARIJUANA USES AND ACTIVITIES**

- 20
21 **19.342.010 Purpose**
22 **19.342.020 Prohibition**
23 **19.342.030 Cultivation**
24 **19.342.040 Personal Use**
25 **19.342.050 Medical Use**
26 **19.342.060 Public Nuisance**
27 **19.342.070 Penalties**
28 **19.342.080 Severability**

29 **19.342.010 Purpose**

30 The City Council finds that prohibitions on all commercial and non-commercial
31 marijuana processing, delivery, cultivation, sale and distribution are necessary for the preservation and

1 protection of the public health, safety and welfare for the City and its residents.

2 **19.342.020 Prohibition**

3 A. All marijuana cultivation, processing, delivery, sales and dispensaries, or any similar
4 use, shall be prohibited activities in all zones and all specific plan areas in the City. No use permit,
5 variance, building permit, or any other entitlement, license, or permit, whether administrative or
6 discretionary, shall be approved or issued for the activities of marijuana cultivation, processing,
7 delivery, sales, the establishment or operation of a marijuana dispensary or retail store, or any similar
8 use, in the City, and no person shall otherwise establish or conduct such activities in the City.

9 B. This section is meant to prohibit all activities for which a State license is required.
10 Accordingly, the City shall not issue any permit, license, except for testing laboratories, or other
11 entitlement for any activity for which a State license is required under the Medicinal and Adult Use
12 Cannabis Regulation and Safety Act.

13 C. Except as set forth in section 19.342.040 below, cultivation of marijuana for medical
14 purposes, including cultivation by a qualified patient or a primary caregiver, is expressly prohibited in
15 all zones and all specific plan areas in the City. No person, including a qualified patient or primary
16 caregiver, shall cultivate any amount of marijuana in the City, even for medical purposes.

17 **19.342.030 Cultivation**

18 A. Outdoor. No individual or entity may plant, cultivate, harvest, dry, or process
19 marijuana plants outdoors in any zone or specific plan area of the City. No use permit, building permit,
20 variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved
21 or issued for any such use or activity.

22 B. Indoor. No individual or entity may plant, cultivate, harvest, dry, or process marijuana
23 plants inside a private residence, or inside an accessory structure to a private residence located upon
24 the grounds of a private residence, in excess of the limitations imposed by California Health and Safety
25 Code section 11362.2. No individual or entity may plant, cultivate, harvest, dry, or process marijuana
26 plants inside any enclosed structure within any zone or specific plan area of the City which is not
27 either a private residence or an accessory structure to a private residence located upon the grounds of
28 a private residence.

1 **19.342.040 Personal Use**

2 Pursuant to California Health and Safety Code sections 11362.1 and 11362.2, an individual
3 may cultivate marijuana for personal use only within a residential structure or other fully enclosed and
4 locked accessory structure located entirely on residential property owned or legally possessed by him
5 or her, pursuant to the following regulations:

6 A. The cultivation of marijuana may take place only inside a lawfully existing and fully
7 enclosed and secure private residence, or inside a lawfully existing and fully enclosed and secure
8 accessory structure to a private residence that is located on the same parcel as the private residence.
9 No cultivation shall occur outside of a fully enclosed structure.

10 B. The primary use of the property shall be for a residence and cultivation is to be
11 considered an incidental use.

12 C. All areas used for cultivation of marijuana shall comply with all Buildings Codes and
13 Regulations of the Riverside Municipal Code and the State of California, as well as all other applicable
14 laws.

15 D. Indoor grow lights are not allowed in any structure used for human habitation. Indoor
16 grow lights in any other structure shall not exceed 1,000 watts per light, and shall comply with the
17 California Building, Electrical and Fire Codes as adopted by the City.

18 E. The use of gas products or volatile solvents, or dangerous poisons, toxins or
19 carcinogens (including but not limited to CO₂, butane, propane, natural gas, xylene, styrene, gasoline,
20 kerosene, O₂ H₂, methanol, iso-propyl alcohol, methylene chloride, acetone, benzene, toluene, and
21 trichloro-ethylene,) or generators for cultivation of marijuana is prohibited.

22 F. Any structure used for the cultivation of marijuana must have a ventilation and filtration
23 system installed that shall prevent marijuana plant odors from exiting the interior of the structure and
24 designed to prevent mold and moisture and otherwise protect the health and safety of persons residing
25 in the residence and cultivating the marijuana. This ventilation shall at a minimum consist of a system
26 meeting the requirements of the current, adopted edition of the California Building Code section
27 1203.4 (Natural Ventilation) or section 402.3 (Mechanical Ventilation), or their equivalent(s).

28 G. Any accessory structure used for the cultivation of marijuana shall be located in the

1 rear yard area of the parcel or premises and must maintain a minimum setback equal to the greater of
2 (1) the setback imposed pursuant to the applicable zoning provisions of this Code, or (2) ten-feet from
3 any property line. The yard where the structure is maintained must be enclosed by a solid fence at
4 least six feet in height.

5 H. Adequate mechanical locking or electronic security systems must be installed as part
6 of the structure prior to the commencement of cultivation.

7 I. Marijuana cultivation shall be limited to six (6) marijuana plants per private residence,
8 regardless of whether the marijuana is cultivated inside the residence or in an accessory structure. The
9 limit of six (6) plants per private residence shall apply regardless of how many individuals reside at
10 the private residence.

11 J. The residential structure shall remain at all times a residence, with legal and functioning
12 cooking, sleeping and sanitation facilities with proper ingress and egress. No room used for cooking
13 of meals, sleeping or bathing shall be used for cultivation.

14 K. Cultivation of marijuana shall take place only on impervious surfaces.

15 L. There shall be no exterior evidence of marijuana cultivation occurring on the parcel.

16 M. No more than one room in any structure may be used for cultivation.

17 N. The marijuana cultivation area shall not exceed thirty-two square feet and not exceed
18 ten feet in height per residence. This limit applies regardless of the number of individuals residing in
19 the residence.

20 O. No room or area in a structure that is used for cultivation shall be accessible to persons
21 under twenty-one (21) years of age.

22 P. Written consent of the property owner to cultivate marijuana within the residential
23 structure shall be obtained and shall be kept on the premises, and available for inspection by agents of
24 the City.

25 Q. A portable fire extinguisher, that complies with the regulations and standards adopted
26 by the State Fire Marshal and applicable law, shall be kept in any room used for cultivation of
27 marijuana.

28 R. No one other than a full-time resident of the residence shall be involved or take part in

1 the cultivation and said full-time resident may not participate in cultivation in any other location within
2 the City.

3 S. No chemical fertilizers, pesticides, or other chemical agents shall be used for marijuana
4 cultivation.

5 T. The marijuana cultivation area shall not adversely affect the health or safety of the
6 nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or
7 other impacts; and shall not be conducted in a manner that is hazardous due to the use or storage of
8 materials, processes, products or wastes, or from other actions related to the cultivation.

9 U. For the protection of local groundwater resources and indoor air quality, and to avoid
10 disposal of harmful substances into sewers or septic systems, no chemical shall be used for marijuana
11 cultivation that contains any substance on the list prepared pursuant to California Health and Safety
12 Code section 25249.8; provided, that any chemical specifically approved by the California Department
13 of Pesticide Regulation for indoor use on marijuana may be used in amounts prescribed by the
14 Department. No chemical used for marijuana cultivation shall be stored in a manner visible from
15 neighboring residences or to individuals located outside the property line or in the public right-of-way.

16 V. Cultivation shall be limited exclusively for the personal use of lawful residents of the
17 property on which the cultivation is occurring.

18 **19.342.050 Medical Use**

19 The outdoor cultivation of medical marijuana, the establishment or operation of any medical
20 marijuana collective, cooperative, dispensary, delivery service, operator, establishment, or provider
21 shall be considered a prohibited use in all zones and specific plan areas of the City. No use permit,
22 variance, building permit, or any other entitlement or permit, whether administrative or discretionary,
23 shall be approved or issued for the cultivation of medical marijuana or the establishment of any
24 collective, cooperative, dispensary, delivery service, operator, establishment, or provider in any zone
25 or specific plan area of the City, and no person shall otherwise establish such businesses or operations
26 in any zone or specific plan area of the City.

27 **19.342.060 Public Nuisance**

28 Any use or condition caused, or permitted to exist in violation of this Chapter, and each and

every violation of the provisions of this Chapter shall be and are hereby declared to be deemed unlawful and a public nuisance and may be summarily abated by the City.

19.342.070 Penalties

In addition to any other enforcement permitted by State law, a civil action for injunctive relief and civil penalties pursuant to Chapter 1.17 of this Code may be brought against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party.

19.342.080 Severability

If any provision of this ordinance or Chapter 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 or Chapter which can be implemented without the invalid provision or application and to this end the provisions of this ordinance and Chapter are declared to be severable."

Section 6. Section 19.485.30, paragraph O of the Riverside Municipal Code is hereby amended to read as follows:

"Section 19.485.30 Permitted Home Occupations.

...

O. The cultivation, manufacturing, distribution, transport, or sale of marijuana or marijuana products ~~A medical marijuana dispensary~~ is not a permitted home occupation."

...

Section 7. Section 19.910.020 "A" Definitions of the Riverside Municipal Code is amended in part as follows:

"Section 19.910.020 "A" Definitions.

...

Agricultural stand

In the RA-5 Zone, a stand for the sale of agricultural products produced or raised on the same premises, excluding marijuana and hemp.

Agricultural use

The use of land for the commercial or non-commercial purpose of planting, growing, raising, and harvesting of crops, livestock, or poultry; all of which shall be subject to any applicable state license, to a conditional use permit where required under this Code, and to the limitations and exclusions presented in this definition or as set forth for specific zones created under this Code. [For the purpose of this definition, crops shall not include marijuana or hemp.](#)

...

Section 8. Section 19.910.040 "C" Definitions of the Riverside Municipal Code is amended in part as follows:

"Section 19.910.040 "C" Definitions.

...

Cannabis

[See Marijuana."](#)

...

Section 9. Section 19.910.090 "H" Definitions of the Riverside Municipal Code is amended in part as follows:

"Section 19.910.090 "H" Definitions.

...

Home occupation

Any use of a dwelling unit and related property for employment or occupational purposes that is incidental to the residential use of the dwelling unit. [The cultivation, manufacturing, distribution, transport, or sale of marijuana or marijuana products is not a permitted home occupation."](#)

...

Section 10. Section 19.910.140 "M" Definitions is hereby amended to read as follows:

"Section 19.910.090 "M" Definitions.

...

Marijuana

[The term "marijuana" shall mean all items included in the California Health and Safety Code sections 11018 and 11018.1.](#)

...

**Marijuana
Cultivation
Personal**

Marijuana Cultivation [in a private residence](#) for [the exclusive personal use of a resident of the residence who is twenty-one \(21\) years of age or older, as permitted by California Health and Safety Code sections 11362.1 and 11362.2."](#)

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Ayes:

Noes:

Absent:

Abstain:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
City of Riverside, California, this _____ day of _____, 2018.

City Clerk of the City of Riverside

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