

A. Urgency Ordinance Adopting A 45-Day Interim Moratorium on the Approval of New Cannabis Licenses and New Cannabis Conditional Use Permits and the Issuance of Building Permits for the Build-out or Expansion of New Cannabis Businesses

Recommendation: Staff recommends approval of the urgency ordinance adopting a 45-day initial moratorium on the approval of new cannabis licenses and conditional use permits and the issuance of building permits for the build-out or expansion of new cannabis businesses.

ORDINANCE NO. _____

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY, CALIFORNIA, ADOPTING AND IMPOSING A TEMPORARY MORATORIUM ON THE APPROVAL OF LICENSES, PERMITS, APPROVALS, OR OTHER ENTITLEMENTS FOR USE, INCLUDING ANY MODIFICATION THEREOF, FOR CANNABIS BUSINESSES

WHEREAS, the City of Cathedral City has consistently worked to encourage economic development and to maintain the economic vitality of the community by encouraging development that provides significant tax revenue to the City and that provides significant employment opportunities for City residents wherever possible; and

WHEREAS, the City of Cathedral City has attempted to balance various land uses to accomplish these goals; and

WHEREAS, On October 25, 2017, the City Council adopted Ordinance Nos. 800 and 801 establishing a set of regulations allowing adult-use cannabis businesses to operate within the City, and, further, the City established administrative rules and regulations dated December 28, 2017, that implement such ordinances (“Cannabis Regulations”). The Cannabis Regulations were created to provide the public with a clear understanding of the process for obtaining City approval to operate a Cannabis Business within the City, and were codified within the Cathedral City Municipal Code (“Code”) in Chapters 5.88 and 9.108 and have been amended since their adoption, with the last amendment in 2022; and

WHEREAS, Chapter 5.88 provides for the regulation and licensing of medical and adult-use cannabis business throughout the City in conformance with applicable state and local laws and regulation pertaining to medicinal and adult use cannabis; and

WHEREAS, Chapter 9.108, as currently codified is contained in Title 9 of (Zoning Ordinance) of the Code, regulates cannabis business land uses, including the zone districts where cannabis uses are permitted, as authorized by section 26200 of the California Business and Professions Code, in a manner designed to minimize negative impacts on the City and neighboring uses, and to promote the health, safety, morals, and general welfare of residents and businesses within the City; and

WHEREAS, the City currently has 64 cannabis businesses with 105 licenses comprised of 46 operating businesses with 67 licenses and 16 non-operational businesses with 38 licenses; and

WHEREAS, in April 2024, the City began experiencing a higher number of cannabis odor complaints. Between January 1 and March 30, 2024, the City received a total of 38 cannabis odor reports. Between April 1 and December 31, 2024, the City received an additional 904 cannabis odor complaints, including 220 in November 2024 and 501 in December 2024. These complaints frequently cite the interference with the use and

enjoyment of their property; and

WHEREAS, the above-mentioned complaints concerning cannabis odors were reported across the City with a large number of complaints occurring in the vicinity of Date Palm Drive and Ramon Road with the balance of complaints pertaining to businesses located off of Perez Road, Kieley Road, Bankside Drive, and Sunair Plaza; and

WHEREAS, despite City staff's efforts to manage the complaints through additional inspections of cannabis businesses, increased proactive patrols, and specific actions by cannabis businesses to mitigate odors, the City has seen an increase in the number of cannabis odor complaints; and

WHEREAS, while there are likely multiple reasons for this, not all of which have been identified at this point, there are two explanatory factors that stand out: 1) a 325,000 square foot cannabis cultivation use started operations in 2024 in the vicinity of Date Palm Drive and Ramon Road; and 2) the City has a large concentration of cannabis businesses located off of Perez Road, Kieley Road, Bankside Drive, and Sunair Plaza; and

WHEREAS, the large cannabis cultivation use was conditioned to provide an odor absorbing ventilation and exhaust system that prevents internal odor from being emitted externally. They have been required by the City to install additional odor mitigation, including a fogging system, which was installed on November 29, 2024. However, the City has continued to receive cannabis odor complaints related to this business since the installation of the fogging system; and

WHEREAS, the concentration of cannabis businesses off Perez Road, Kieley Road, Bankside Drive, and Sunair Plaza has presented challenges with respect to identifying the source of complaints; and

WHEREAS, the City is therefore concerned about the efficacy of the Cannabis Regulations in preventing/minimizing cannabis odors emanating from the City's cannabis businesses and is concerned about the impact of such odors upon sensitive receptors (e.g., residential properties, schools, community centers, places of worship) and the effect thereof upon the public health, safety and welfare; and

WHEREAS, collectively, the cumulative volume of complaints citing the interference with the use and enjoyment of property and the limited effect actions to date have had in mitigating these complaints necessitate a review of the City's cannabis regulations, with particular emphasis on zoning, odor control, and enforcement.; and

WHEREAS, given the number of cannabis odor complaints, the City desires to review the Cannabis Regulations (including, without limitation, zoning designations, building construction standards, odor mitigation requirements, enforcement mechanisms, and other cannabis regulations) to ensure that odors from cannabis businesses are effectively mitigated and cannabis businesses located in the appropriate zones with appropriate buffers and distance requirements from sensitive receptors (e.g., residential

properties, schools, community centers, places of worship); and

WHEREAS, therefore, the City desires to study and analyze the Cannabis Regulations to ensure that they are up to date and effectively regulate cannabis businesses in the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY DOES HEREBY ORDAINS AS FOLLOWS:

Section 1. FINDINGS

The City Council finds and determines the following:

(a) The recitals set forth above are hereby adopted as findings of the City Council.

(b) Based upon the findings set forth above and all oral and written testimony and reports presented by members of the public and City staff to the City Council on January 22, 2025, the continuous approval, establishment, and operation of cannabis businesses in the limited areas where they are permitted in the City poses an immediate threat to the public health, safety and welfare because it will potentially increase cannabis odors within the City such that it could create a public nuisance and negatively impact the City's residents, such as their quality of life, and, in particular, negatively impact the City's sensitive receptors (e.g., residential properties, schools, community centers, places of worship). Therefore, the immediate threat of the impact of cannabis odors upon the City's residents and its sensitive receptors (e.g., residential properties, schools, community centers, places of worship) within the City justifies adoption of an interim urgency moratorium ordinance; and

(c) In order to allow the City appropriate time to study the impacts of cannabis businesses and to adopt, if necessary, amendments to the Cannabis Regulations so as to ensure that the Cannabis Regulations are up to date and effectively regulate cannabis businesses, a temporary moratorium on the approval of new cannabis businesses must be enacted.

Section 2. MORATORIUM

Pursuant to the authority granted to the City Council by California Government Code Section 65858 to protect the health, safety and general welfare of the residents of the City of Cathedral City, and based upon the findings set forth above and all oral and written testimony and reports presented by members of the public and City staff to the City Council on January 22, 2025, the City Council hereby enacts as an interim urgency measure a moratorium to take effect immediately upon the adoption of this Ordinance as follows:

(a) Definitions. Except as otherwise provided herein, all terms used in this Ordinance shall have the same definitions as provided for in Chapters 5.88 and 9.108 of the Code.

(b) Moratorium. Beginning on the effective date of this Ordinance, no licenses, permits, approvals, or other entitlements for grading, building, improvements, and/or use shall be approved for or issued to a cannabis business, including, without limitation, local licenses pursuant to Chapter 5.88 of the Code; conditional use permits pursuant to Chapter 9.108 of the Code; any permits for cannabis business lounges; and any permits for temporary cannabis events pursuant to Section 5.88.035 and Chapter 9.68 of the Code (“Permit”). In addition, no modification to any existing Permit shall be approved, including, without limitation, the following:

(i) Modifications that will result in an increase, intensification or expansion in the cannabis-related use or operations, or the square-footage utilized for cannabis cultivation, manufacturing, processing, distribution, storage, sales, display, or similar cannabis-related activity, of a cannabis business (“Increase in Operations”). An increase in sales volume based on increased demand and not on an Increase in Operations is not considered to be an Increase in Operations.

(ii) Modifications to change the location of a cannabis business.

(c) Exemptions. The following shall be exempt from the moratorium provided in this Ordinance:

(i) Any modification to an existing Permit solely for the purposes of changing ownership of a cannabis business, provided that such modification shall not result in an Increase in Operations or a change in location of the cannabis-related operations of the cannabis business.

(ii) Any Permit or modification thereof that that does not result in the Increase in Operations of the cannabis-related operations of the cannabis business, such as expansions to administrative office space, minor tenant improvements, and repairs.

(iii) Any Permit modification that decreases the cannabis-related use or operations, or square-footage utilized for cannabis cultivation, manufacturing, processing, distribution, storage, sales, display, or similar cannabis-related activity, of a cannabis business.

(iv) Any renewal of a Permit.

(v) If both applications for a local license pursuant to Chapter 5.88 of the Code and conditional use permit pursuant to Chapter 9.108 of the Code were received by City staff by 4:30 p.m. on January 22, 2025, and such applications were fully completed and accompanied by all of the required supporting documents and application deposits as required by the Cannabis Regulations, then Permits related to

such applications may be approved and/or issued, as applicable.

Section 3. REPORT

Pursuant to Government Code § 65858(d), ten (10) days prior to the expiration or any extension of this Ordinance, the City Council will issue a written report describing the measures taken to alleviate the conditions which led to the adoption of this Ordinance.

Section 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3) (there is no possibility the adoption of this Ordinance will have a significant effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated Municipal Code review.

Section 5. SEVERABILITY

If any chapter, sections, subsections, subdivisions, sentences, clauses, phrases, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each chapter, sections, subsections, subdivisions, sentences, clauses, phrases, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 6. EFFECTIVE DATE; EXPIRATION; EXTENSION

Pursuant to Government Code § 65858(a), this Ordinance shall take effect immediately but shall be of no further force and effect forty-five (45) days from its date of adoption, unless the City Council, after notice and public hearing as provided under Government Code § 65858(a) and adoption of the findings required by Government Code § 65858(c), subsequently extends this Ordinance.

Section 7. POSTING

The City Clerk shall cause this Ordinance to be posted in the manner as required by law.

Section 8. CERTIFICATION

The foregoing Ordinance was approved and adopted at a meeting of the City Council held on the 22 day of January, 2025, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Nancy Ross, Mayor

ATTEST:

Tracey Hermosillo, City Clerk

APPROVED AS TO FORM:

Eric S. Vail, City Attorney