

INTERIM URGENCY ORDINANCE NO. U-601-24

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA, EXTENDING URGENCY ORDINANCE NO. U-600-23 WHICH INSTITUTED A 45-DAY TEMPORARY MORATORIUM ON THE ESTABLISHMENT OR EXPANSION OF MEDICAL MARIJUANA DISPENSARIES OR FACILITIES AND MOBILE MEDICAL MARIJUANA DISPENSARIES WITHIN CITY LIMITS FOR AN ADDITIONAL TEN MONTHS AND FIFTEEN DAYS, DECLARING THE URGENCY THEREOF, AND FINDING AN EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Summary: This ordinance extends, for 10 months and 15 days, the City’s ban on the establishment or expansion of medical marijuana dispensaries, facilities, and mobile medical marijuana dispensaries within Murrieta.

WHEREAS, the City of Murrieta (“City”) has the authority under its police power, to enact regulations for the public peace, morals, and welfare of the City; and

WHEREAS, the City currently regulates marijuana dispensaries and distribution facilities, the for-profit cultivation of marijuana, and the indoor personal cultivation of marijuana within the City under Section 16.44.250 of the Murrieta Municipal Code (“MMC”); and

WHEREAS, under MMC Section 16.44.250, marijuana dispensary is not a permitted use and is prohibited in all zones throughout the City. Further, under the MMC, mobile marijuana dispensaries and marijuana delivery are prohibited in the City, and marijuana manufacturing, and marijuana distribution are not permitted uses and are prohibited in all zones throughout the City; and

WHEREAS, under MMC Section 16.44.250, marijuana cultivation is not a permitted use and is prohibited in all zones throughout the City, except for indoor personal cultivation of marijuana; and

WHEREAS, under MMC Section 16.44.250, any violation of marijuana regulations shall constitute a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment; and

WHEREAS, under MMC Section 16.44.250, the operation of any mobile marijuana dispensary and marijuana delivery within the City is a public nuisance, and may be abated by the City, including through declaratory relief and civil injunction. Failure to abate a public nuisance constitutes a misdemeanor punishable by a fine not to exceed one thousand dollars or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment; and

WHEREAS, under Senate Bill No. 1186 (“SB 1186”), signed into law by Governor Newsom on September 18, 2022 and effective January 1, 2024, a local jurisdiction shall not adopt or enforce any regulation that prohibits the retail sale by delivery within the local jurisdiction of medicinal marijuana to medicinal marijuana patients or their primary caregivers, or that otherwise has the effect of prohibiting the retail sale by delivery within the local jurisdiction of medicinal

marijuana to medicinal marijuana patients or their primary caregivers by licensed medicinal marijuana businesses in a timely and readily accessible manner, and in types and quantities that are sufficient to meet demand from medicinal marijuana patients within the local jurisdiction; and

WHEREAS, the City desires to amend its existing regulations governing the sale and delivery of medical marijuana to bring the MMC sufficiently into compliance with SB 1186. City staff intends to study, within a reasonable time, land use regulations related to the sale and delivery of medical marijuana so that it may consider modifications to the MMC and potential local regulations for such uses; and

WHEREAS, medical marijuana facilities and medical marijuana delivery services present challenges and impacts to the health, safety, and welfare of City residents due to secondary impacts and effects associated with marijuana and related activities, including but not limited to, sales of marijuana to minors, drug sales, robbery, burglaries, assaults, and other violent crimes, fraud in obtaining or using medical marijuana identification cards, and increased demands on police and other valuable and scarce city administrative, financial, or personnel resources; and

WHEREAS, the City anticipates that medical marijuana facility operators and mobile medical marijuana dispensaries may seek to establish facilities and delivery services, or desire to expand existing facilities and delivery services into the City, before a non-urgency ordinance amending the MMC to enact such regulations would become effective; and

WHEREAS, California Government Code Sections 36934, 36937, and 65858 expressly authorize the City Council to adopt an urgency ordinance for the immediate preservation of the public peace, health, or safety and to prohibit a use that is in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission, or the planning department is considering or studying or intends to study within a reasonable time; and

WHEREAS, on December 19, 2023, the City Council adopted Interim Urgency Ordinance No. U-600-23, to impose a temporary moratorium on the establishment or expansion of medical marijuana dispensaries, facilities, and mobile medical marijuana dispensaries within the City of Murrieta (“Moratorium”) based upon immediate threats to public health, safety, and welfare; and

WHEREAS, the City Council continues to be concerned that the public welfare will be threatened if any medical marijuana facilities and delivery service uses are approved within the City without first studying and evaluating the fiscal, community, and public welfare impacts associated with medical marijuana facilities and mobile medical marijuana dispensary, including but not limited to, public welfare concerns related to crime and health and safety impacts of the sale of marijuana; increased demands on police and other valuable and scarce city administrative, financial, or personnel resources; compatible zoning regulations appropriate for medical marijuana facilities; and existing City policies and goals set forth in the General Plan and Murrieta Municipal Code applicable to these uses; and

WHEREAS, based upon the forgoing, an extension of the Moratorium is necessary so that the City may continue to thoroughly investigate, review, study and amend the City’s laws, rules, procedures and fees related to the establishment of new medical marijuana facilities and mobile medical marijuana dispensaries within the City; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City Council desires, on an urgency basis, to extend the temporary prohibition on the

establishment of new, or expansion of existing, medical marijuana facilities and mobile medical marijuana dispensaries within the City; and

WHEREAS, the City Council, after notice duly given as required by law, held a public hearing on January 16, 2024 at 6:00 p.m., in the City Hall council chamber to consider this proposed Interim Urgency Ordinance No. XXX, and heard all arguments for and against this proposal.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are true and accurate and are adopted herein by reference.

SECTION 2. Findings.

The City Council finds and determines the recitals above are true and correct, and are hereby incorporated by reference. Additionally, based on the foregoing, both verbal and written testimony at the public hearing, including the staff report, exhibits, and any materials provided by members of the public, the City Council finds as follows:

A. There continues to be a public urgency and a need to immediately protect the public health, safety, and welfare as detailed further in the Moratorium and in this Interim Urgency Ordinance.

B. This Interim Urgency Ordinance extending the Moratorium continues the prohibition of the establishment of medical marijuana facilities and mobile medical marijuana dispensaries for a period of 10 months and 15 days from its adoption while the City is considering or studying or intends to study the establishment of new medical marijuana facilities and mobile medical marijuana dispensaries or the expansion of existing medical marijuana facilities and mobile medical marijuana dispensaries.

C. There is insufficient time for the City to adopt a regular, non-urgency ordinance applicable to these types of businesses at this time. This extension of the Moratorium complies with applicable state law and preserves the status quo so that the City may either prohibit such uses or establish reasonable rules and regulations protecting the public health, safety, and welfare of City residents and businesses regarding the establishment of new medical marijuana facilities and mobile medical marijuana dispensaries or the expansion of medical marijuana facilities and mobile medical marijuana dispensaries.

D. Without an extension of the Moratorium, the potential adverse direct and secondary effects of the establishment of new medical marijuana facilities and mobile medical marijuana dispensaries or the expansion of existing medical marijuana facilities and mobile medical marijuana dispensaries present a clear and present danger to the immediate preservation of the public health, safety, and welfare of the community. Further, the potential proliferation of establishment of new medical marijuana facilities and mobile medical marijuana dispensaries or the expansion of existing medical marijuana facilities and mobile medical marijuana dispensaries may adversely affect the City's economic vitality, and may not be compatible with existing and potential uses of similarly zoned businesses.

E. In light of the concerns noted herein, the City Council determines it continues to be in the interest of protecting the immediate public health, safety, or welfare to extend the

Moratorium by 10 months and 15 days to allow staff time to, among other related tasks, continue and/or proceed with a comprehensive study to research and consider potential regulatory and zoning mechanisms for regulating such businesses.

F. Until such time that staff concludes a comprehensive study and the City Council determines whether to adopt new regulatory controls over medical marijuana facilities and mobile medical marijuana dispensaries, the community is in jeopardy in that such businesses could be established which would be in potential conflict with the City's regulatory or zoning proposals. The establishment of such new businesses would defeat the intent and purpose of any potential future regulation and substantially impair its effective implementation.

G. Based upon the forgoing, this urgency extension of the Moratorium is necessary in order to ensure that adequate regulation regarding the establishment of new medical marijuana facilities and mobile medical marijuana dispensaries or the expansion of existing medical marijuana facilities and mobile medical marijuana dispensaries in the City is adopted prior to the issuance of any new permits authorizing such activities to an extent greater than set forth in the Moratorium.

H. Based upon the forgoing, issuance or approval of any building, planning, or other applicable entitlements for the establishment of establishment of new medical marijuana facilities and mobile medical marijuana dispensaries or the expansion of existing medical marijuana facilities and mobile medical marijuana dispensaries prior to the staff's completion of its comprehensive study would result in a current and immediate threat to the public health, safety or welfare, and therefore extension of the Moratorium will continue to prevent a current and immediate threat to the public health, safety, and welfare.

SECTION 3. CEQA Findings

The City Council finds that this Interim Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (activity that will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15378 (the activity is not a project under CEQA) of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly. This is because the moratorium extended by this Interim Urgency Ordinance merely prohibits uses that have significant impacts on public health, safety and welfare, and does not permit any development that could result in a significant change to the environment. Furthermore, the moratorium extended by this Interim Urgency Ordinance is temporary pending further study and investigation. In addition, the Interim Urgency Ordinance is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, because this ordinance is a regulatory action taken by the City in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending further review of the potential impacts of medical marijuana facilities and mobile medical marijuana dispensaries in the City and potential modifications to the Murrieta Municipal Code.

SECTION 4. Investigation and Report During Term of Moratorium

During the term of this Interim Urgency Ordinance, the Development Services Director is directed to study appropriate modifications to the Murrieta Municipal Code to mitigate the conditions outlined in Section 2 above that may arise out of developing, maintaining, and

expanding medical marijuana facilities and mobile medical marijuana dispensaries. The study shall include but not be limited to the prohibition of all such uses. The Development Services Director is further directed to report back to the City Council with his findings at least 10 days prior to the expiration of this Interim Urgency Ordinance.

SECTION 5. Effective Date; Findings of Urgency; and Duration

This Interim Urgency Ordinance is adopted as an urgency ordinance pursuant to the provisions of Government Code Sections 65858, 36934 and 36937, and shall take effect immediately upon its adoption. Based upon the findings set forth in the recitals and Section 2 above, the City Council finds and determines that the adoption of this Interim Urgency Ordinance is an urgency ordinance authorized by Government Code Section 65858, and is necessary for the immediate preservation of the public health, safety, and welfare.

Pursuant to Government Code Section 65858(a), this Interim Urgency Ordinance shall be adopted by not less than a four-fifths vote of the City Council and shall be in effect for 10 months and 15 days. Upon notice and public hearing, the City Council may further extend the Interim Urgency Ordinance by an additional year, if necessary. Not later than ten (10) days prior to the expiration of this Interim Urgency Ordinance, the City Council shall issue a written report as required by applicable state law.

SECTION 6. Severability

If any section, subsection, sentence, clause, or phrase of this Interim Urgency Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this Interim Urgency Ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the Interim Urgency Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7. Publication

Within fifteen (15) days after the adoption of the ordinance, the City Clerk shall publish a summary of the ordinance with the names of the council members voting for and against the ordinance.

ADOPTED by the City Council, signed by the Mayor, and attested by the City Clerk this 16th day of January, 2024.

Lori Stone, Mayor

ATTEST:

Cristal McDonald, City Clerk

APPROVED AS TO FORM:

Tiffany J. Israel, City Attorney

I, Cristal McDonald, City Clerk of the City of Murrieta, California, hereby certify under penalty of perjury that the foregoing Interim Urgency Ordinance No. U-601-24 was duly and regularly adopted at a meeting of the City Council on the 16th day of January, 2024 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Murrieta, California, this _____ day of _____, 2024.