

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF CATHEDRAL CITY, CALIFORNIA, AMENDING CHAPTER 5.88 OF THE CATHEDRAL CITY MUNICIPAL CODE PROHIBITING THE ISSUANCE OF NEW MEDICAL CANNABIS LICENSES TO DISPENSARIES LOCATED SOUTH OF INTERSTATE 10

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 and entitled “The Compassionate Use Act of 1996”), decriminalizing the use of cannabis for medical purposes; and

WHEREAS, in 2003, the California Legislature adopted SB 420, the Medical Marijuana Program, codified as Health and Safety Code Section 11362.7 *et. seq.*, which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate medical cannabis without being subject to criminal prosecution; and

WHEREAS, in 2008, the Attorney General of the State of California set forth Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use ("Guidelines"); and

WHEREAS, in October 2015, the State of California adopted AB 243, AB 266, and SB 643 (“Medical Cannabis Regulation and Safety Act” or “MCRSA”) to clarify legal requirements pertaining to medical cannabis; and

WHEREAS, the MCRSA and California Supreme Court empowers cities and counties to enact laws or regulations pertaining to medical cannabis cultivation, dispensing, manufacturing or distribution pursuant to its police powers; and

WHEREAS, Cathedral City supports the right of patients with debilitating medical conditions to have safe access to medical cannabis; and

WHEREAS, Cathedral City has adopted regulations governing the licensing and land use regulation of medical cannabis dispensaries, cultivators, manufacturers, transporters, distributors and testing laboratories as permitted by state law; and

WHEREAS, since the City began accepting applications for dispensaries under its current medical cannabis regulations, the City has approved 18 medical cannabis licenses for dispensaries, most of which are in very close proximity to each other and all of which are located south of Interstate 10; and

WHEREAS, on November 23, 2016, the City Council adopted an interim urgency moratorium on dispensaries to allow the City Council time to consider whether amendments to its dispensary regulations is necessary or desirable; and

WHEREAS, Cathedral City has a legitimate interest in maintaining an appropriate balance of land uses within its borders, and Cathedral City desires to ensure that there is an appropriate balance of medical cannabis businesses and other uses; and

WHEREAS, it is the purpose and intent of this Ordinance to prohibit the approval of new medical cannabis licenses for dispensaries south of Interstate 10, except for two licenses that were applied for prior to the adoption of the moratorium ordinance and were not subject to the moratorium; and

WHEREAS, it is the purpose and intent of this Ordinance to allow licensed medical cannabis dispensaries located south of Interstate 10 to relocate within the City, and nothing in this Ordinance shall be construed as limiting the ability of the City to approve a transfer of a medical cannabis license to a new location or the approval of a conditional use permit for the new location.

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

SECTION 1. AMENDMENT OF SECTION 5.88.040 OF THE CATHEDRAL CITY MUNICIPAL CODE.

Section 5.88.040(A) of the Cathedral City Municipal Code is hereby amended to read as follows:

“A. The local licensing authority shall not accept an application for a local license prior to April 1, 2016. The local licensing authority shall not accept an application for a dispensary proposed to be located south of Interstate 10 after November 23, 2016.”

SECTION 2. AMENDMENT OF SECTION 5.88.045 OF THE CATHEDRAL CITY MUNICIPAL CODE.

Section 5.88.045 of the Cathedral City Municipal Code is hereby amended to add a new paragraph G to read as follows:

“G. A local license shall not be issued to a dispensary that is proposed to be located south of Interstate 10 unless the application for the license was made on or before November 23, 2016.”

SECTION 3. AMENDMENT OF SECTION 5.88.050(D) OF THE CODE.

Section 5.88.050(D) of the Cathedral City Municipal Code is hereby amended to add a new subparagraph 3 to read as follows:

“3. The local licensing authority may permit a dispensary that is located south

of Interstate 10 to relocate to a new location either south or north of Interstate 10. The local licensing authority may permit a dispensary that is located south of Interstate 10 to relocate to a new location north of Interstate 10, but shall not permit a dispensary that is located north of Interstate 10 to relocate to a new location that is south of Interstate 10.”

SECTION 4. AMENDMENT OF SECTION 5.88.055(E) OF THE CODE.

Section 5.88.055(E) the Cathedral City Municipal Code is hereby amended to read as follows (changes are underlined):

“E. Unless administratively continued pursuant to subsection A, a local license is immediately invalid upon expiration and the medical cannabis business shall cease operations. If a local license expires, the local licensing authority may approve a renewal of the expired license at any time up to three (3) months from the expiration date of the license. After the license has been expired for three (3) months, the license may not be renewed by the local licensing authority, and the holder of the expired license must apply for and obtain a new medical cannabis license to resume operations.”

SECTION 5. ENVIRONMENTAL FINDINGS

The City Council finds that this Ordinance is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15061(b)(3) as it can be seen with certainty that the adoption of this ordinance would not have a significant effect on the environment. This ordinance would result in no more new dispensaries being approved south of Interstate 10. At this time there are no other zoning districts where dispensaries are permitted or conditionally permitted, meaning that this ordinance preserves the status quo in terms of the number and siting of dispensaries in the City. As the City already has numerous approved dispensaries to serve the medical cannabis needs of the population, residents will not be forced to drive long distances to obtain medical cannabis.

SECTION 6. SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after certification.

SECTION 8. REPEAL OF CONFLICTING PROVISIONS

Except as otherwise provided herein, all the provisions of the Cathedral City Municipal Code as heretofore adopted that are in conflict with the provisions of this Ordinance are hereby repealed as of the Effective Date.

SECTION 9. POSTING

The City Clerk shall within 15 days after passage of this Ordinance, cause it to be posted in at least three (3) designated public places; shall certify to the adoption and posting of this Ordinance; and shall cause this Ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of this City.

SECTION 10. CERTIFICATION

The foregoing Ordinance was approved and adopted at a meeting of the City Council held on the ____ day of _____, 2017, by the following vote:

Ayes:

Noes:

Absents:

Abstains:

Stan Henry, Mayor

ATTEST:

Gary F. Howell, City Clerk

APPROVED AS TO FORM:

Eric S. Vail, City Attorney