

ORDINANCE NO. 785

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 NEW APPLICATIONS FOR DISPENSARIES

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, City of Cathedral City Ordinances 772 and 774 amended the City's Municipal Code to substantially change the City's regulation of medical cannabis businesses, including but not limited to removing the provision that capped the number of dispensaries permitted to operate in the City to no more than three; and

WHEREAS, the City began accepting applications for dispensaries under Ordinances 772 and 774 on April 1, 2016, and as of November 17, 2016, applications for 18 new dispensaries have been received; and

WHEREAS, of those 18 proposed dispensaries:

- 11 have received a medical cannabis license and conditional use permit from the Planning Commission to operate from the City;
- 0 have received a medical cannabis license and are awaiting Planning Commission consideration of their conditional use permit application;
- 5 are awaiting a determination on their license application; and
- 2 have been denied a license and/or conditional use permit from the Planning Commission.

WHEREAS, Ordinances 772 and 774 limited the zones where dispensaries can locate to the I-1 Light Industrial District Zone, the CBP-2 Commercial Business Park District Zone, or the PCC Planned Community Commercial District Zone, and further restricts the locations where dispensaries can locate by requiring dispensaries to be set back certain distances from residential zones, East Palm Canyon Drive, and schools, day-care centers, and youth centers; and

WHEREAS, the combination of the limited locations where dispensaries may locate in the City and the large volume of applications for dispensaries that have been

received has resulted in numerous dispensaries seeking to locate within very close proximity of each other; and

WHEREAS, residents and business owners in the areas where large concentrations of dispensaries are seeking to locate have raised concerns regarding the potential negative secondary impacts of locating a large amount of dispensaries within a relatively small area, including but not limited to property crimes, loitering, public consumption of cannabis, drugged driving, and business displacement; and

WHEREAS, the City of Cathedral City has been presented with testimony that Ordinances 772 and 774 have had the unintended consequence of creating a “bubble” in the real estate market in the areas where dispensaries are allowed, which has caused or will cause existing businesses to relocate outside of the City, either voluntarily or involuntarily, because dispensary operators are willing to pay a premium for real estate in these areas; and

WHEREAS, it is unknown if the market for medical cannabis in Cathedral City will support the continued operation of the large number of the dispensaries that are seeking to operate in the City, which will result in vacancies; and

WHEREAS, the City Council is concerned with the possibility that existing, long-standing, desirable, tax-generating businesses may relocate outside of the City to make way for dispensaries that may go out of business in a relatively short amount of time due to the intense competition in the medical cannabis market creating an imbalance in economic and social opportunities within the City; and

WHEREAS, while Ordinances 772 and 774 allow a conditional use permit for a dispensary to be denied based on an “undue concentration” of dispensaries, as evidenced by negative secondary effects stemming from dispensaries, the rapid pace at which proposed dispensaries are seeking conditional use permits means that many dispensaries may be approved before a significant number of the dispensaries are open for business and there is a chance to determine if any negative secondary effects are occurring; and

WHEREAS, Government Code Section 65030 declares that the intent of the State Legislature to use California’s land resources in ways which are economically and socially desirable in an attempt to improve the quality of life in California. To that end, the State Legislature has also declared that land use decisions should be made with full knowledge of other economic implications. (Government code Section 65030.2.); and

WHEREAS, the City needs to study and analyze the possible negative secondary effect that may arise from the operation of dispensaries and the negative secondary impacts that may occur from having a large concentration of dispensaries in certain areas of the City, and determine if the application of the “undue concentration” standard is sufficient to protect the community; and

WHEREAS, the City needs to study and analyze possible changes to its medical cannabis ordinances in order to address proper locations for dispensaries, to adopt

reasonable regulations and appropriate development standards so as to ensure a proper balance of land uses in areas where dispensaries are allowed, ensure there is a balance of economic and social opportunities within the City, and to avoid blight; and

WHEREAS, other cities in the Coachella Valley, including Palm Springs, Desert Hot Springs, and Coachella permit dispensaries and the City needs to study the impact that dispensaries elsewhere in the Valley may have on the City's medical cannabis market and how that may impact the regulations that are necessary to both protect the City and ensure safe access to medical cannabis; and

WHEREAS, the voters of the State of California approved Proposition 64 at the November 8, 2016 election, legalizing non-medical use of marijuana, and the City needs to study the impact the passage of Proposition 64 will have on the market for cannabis and the need for dispensaries in the City; and

WHEREAS, allowing an unlimited number of dispensaries in a small area of the City may present an immediate threat to the public health, safety and welfare, and Government Code Section 65858 authorizes the City Council to adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with General Plan, specific plan and Zoning proposals which the City is considering or studying or intends to study within a reasonable time; and

WHEREAS, the City Council recognizes that proposed dispensary operators that have already submitted applications for a dispensary license and conditional use permit have likely made substantial economic investments in their proposed dispensaries in good faith reliance on the City's ordinances; and

WHEREAS, to the City's knowledge the five pending dispensary applications are all for locations that were already vacant prior to the adoption of Ordinances 772 and 774, or were vacant due to a voluntary decision by the previous occupant to move their business; and

WHEREAS, the City Council finds that in the interest of fairness the five dispensary applications that are pending may be approved, if they meet the standards for approval in Chapters 5.88 and 9.108 of the City Code, as an additional five dispensaries is a small enough number that it does not present an immediate threat to the public health, safety or welfare.

NOW THEREFORE, THE CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: The City Council finds and determines the following:

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

(b) The approval of an unlimited number of dispensaries in the limited areas where they are permitted poses an immediate threat to the public health, safety and welfare because it may create a new or exacerbate an existing bubble in the

real estate market in these areas, potentially causing existing businesses in these areas to leave the City, and resulting in an imbalance of land uses and a loss of diversity in the City's tax and employment base; and

(d) The immediate threat of adverse secondary impacts to the public health, safety, and welfare that would result from allowing development of unlimited dispensaries within these areas justifies adoption of an interim urgency moratorium ordinance; and

(e) In order to allow the City appropriate time to study the impacts of dispensaries and to adopt, if necessary, amendments to the Code to so as to ensure a proper balance of land uses in areas where dispensaries are allowed, and to avoid blight, a temporary moratorium on the approval of new dispensaries must be enacted.

SECTION 2: 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, the City Council hereby enacts as an interim urgency measure a moratorium on the approval of any new dispensaries to take effect immediately upon the adoption of this ordinance as follows:

(a) All applications for a dispensary license pursuant to Chapter 5.88 of the Code and a dispensary conditional use permit pursuant to Chapter 9.108 of the Code that were fully filled out and accompanied by all of the required supporting documents and application deposit received by City staff by 6:00 p.m. on November 23, 2016, may be approved by the City consistent with the requirements of Chapters 5.88 and 9.108. Any applications for a dispensary submitted after this date and time, or that were not fully filled out and accompanied by all of the required supporting documents and application deposit, shall not be granted a license or conditional use permit for the duration of this moratorium.

(b) The moratorium in Section 2(a) of this ordinance shall apply to stand alone dispensaries as well as dispensaries that are proposed in combination with other types of medical cannabis uses. Where dispensaries are proposed in combination with other types of medical cannabis uses, this moratorium shall not prohibit the approval of a medical cannabis license or conditional use permit for the non-dispensary portion of the proposed use.

(c) The moratorium in Section 2(a) shall also apply to any proposed dispensary that seeks to serve the non-medical or recreational cannabis market.

(c) Except as otherwise provided herein, all terms used in this interim urgency ordinance shall have the same definitions as provided for in Chapter 5.88 and 9.108 of the Cathedral City Municipal Code.

SECTION 3: 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 4: 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 5: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect immediately and shall be in effect for a period of 45 days.

PASSED, APPROVED AND ADOPTED this 23rd day of November, 2016, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Stanley Henry, Mayor
City of Cathedral City

**APPROVED AS TO FORM AND
LEGAL CONTENT:**

Eric S. Vail, City Attorney

ATTEST:

Gary Howell, City Clerk