

ORDINANCE NO. 304u

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO HILLS, CALIFORNIA, PROHIBITING PERMIT ISSUANCE FOR MARIJUANA-RELATED LAND USES WITHIN THE CITY FOR A PERIOD OF FORTY-FIVE DAYS TO CONSIDER AMENDING TITLE 16 OF THE CHINO HILLS MUNICIPAL CODE

The Council of the City of Chino Hills does ordain as follows:

SECTION 1: This ordinance is adopted pursuant to Government Code Sections 36937 and 65858, and other applicable laws.

SECTION 2: *Findings:* The Chino Hills City Council finds, determines and declares as follows:

- A. The City can adopt and enforce all laws and regulations not in conflict with the general laws and the City holds all rights and powers established by state law.
- B. The City has a compelling interest in the careful and orderly planning and regulation of land uses within the City.
- C. Without orderly, careful planning, portions of the City can quickly deteriorate, resulting in negative consequences to social, environmental and economic values.
- D. Title 16, Appendix A of the Chino Hills Municipal Code currently prohibits medical-marijuana related land uses.
- E. On November 8, 2016, the voters of the State of California passed the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA").
- F. The AUMA legalized various recreational marijuana activities for persons 21 years of age or older, including recreational marijuana businesses, dispensaries, retailers, delivery services, use, possession, transportation, manufacture, testing, indoor and outdoor cultivation, and other activities.
- G. The AUMA expressly preserves local control over the regulation of marijuana-related businesses and marijuana-related land uses (Business & Professions Code § 26200, *et seq.*)
- H. Other states that have legalized recreational marijuana have experienced a host of negative secondary impacts associated with recreational marijuana, including, without limitation, increased traffic accidents

resulting in death or serious injury, burglaries, personal and property crimes, loitering, fire and building hazards, public intoxication, and other undesirable imp acts on the quality of life for local residents. (See, e.g., *The Legalization of Marijuana in Colorado: The Impact*, Rocky Mountain High Intensity Drug Trafficking Area, Vol. 3, September 2015; *Prevalence of Marijuana Involvement in Fatal Crashes: Washington, 2010-2014*, May 2016, AAA Foundation for Traffic Safety.)

- I. The impact of the AUMA and legalization of recreational marijuana on the City of Chino Hills and its residents is unclear at this time and it is foreseeable that the City could see an influx of applications for marijuana-related land uses, as well as an influx of unpermitted and unregulated marijuana-related land uses, the scope and extent of which is difficult to predict at this time.
- J. Without clear and precise regulations on marijuana-related land uses, there is a present and immediate threat to the health, safety and welfare of the residents of the City of Chino Hills from the unregulated establishment of marijuana-related land uses.
- K. In light of the intent and purpose of the City's existing ban on medical marijuana-related businesses (CHMC Chapter 5.28) and medical marijuana-related land uses (Title 16, Appendix A), together with the permissive nature of the City's zoning scheme as codified in Title 16, the City interprets its current Municipal Code as prohibiting all marijuana-related businesses and land uses, regardless of whether they are medical or recreational in nature.
- L. Despite the City's intent and its interpretation of its existing Code, it is foreseeable that persons seeking to establish recreational marijuana-related land uses may attempt to do so regardless of Chapter 5.28 and Title 16, Appendix A.
- M. To avoid doubt as to the illegality of all marijuana-related land uses, including recreational marijuana-related land uses, and to allow the City time to study the impacts of recreational marijuana land uses on the general health, safety and welfare of City residents, and the consistency of such uses with the City's General Plan and Zoning Code, the City Council desires to adopt an interim ordinance as an urgency ordinance, effective immediately, declaring and establishing a temporary moratorium on all marijuana-related land uses legalized by the AUMA in order to protect the health, safety and welfare of the City's residents.
- N. The best method for protecting the public health, safety and welfare is either to prohibit marijuana-related land uses entirely or to adopt comprehensive regulations for the establishment and operation of

marijuana-related land uses, including, without limitation, locational and operational standards.

- O. The City cannot enact a comprehensive set of restrictions and regulations without due study and deliberation. The City requires an indeterminate length of time to analyze the details of such comprehensive restrictions in light of the enactment of the AUMA. Significant damage to the public health, safety and welfare could occur if persons are permitted to engage in or operate marijuana-related land uses without regulation while a set of proposed regulations is being studied and considered through a public hearing process. Until the City has had the opportunity to evaluate its options and make an informed decision, approval of any land use entitlement or permit such as a use permit, variance, building permit, license, certificate of occupancy, zone clearance or any other land use approval involving marijuana-related uses would threaten the public health, safety and welfare.
- P. This moratorium is consistent with the Chino Hills General Plan, and in particular General Plan Land Use Element Policy LU-3.1 that provides: "Maintain the character and quality of existing neighborhoods," because by prohibiting the establishment or operation of commercial marijuana uses, the City is preventing the negative secondary effects and adverse impacts of marijuana businesses. Further, this ordinance does not create new law and clarifies the City's existing regulations on distribution and cultivation of marijuana.
- Q. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is warranted and necessary in order to protect the City from the potential effects and impacts of unregulated marijuana-related land uses including, without limitation, potential impacts on vehicle traffic, public safety, neighboring land uses, and other similar or related effects on property values and the quality of life in the City's neighborhoods.
- R. The City Council further finds that this moratorium is a matter of local and City-wide importance and is not directed towards any particular applicant or potential applicant for a marijuana-related land use.
- S. Government Code sections 36937 and 65858 authorize the adoption of an urgency ordinance to protect the public health, safety and welfare and to prohibit certain land uses that may conflict with the land use regulations that the City Council is considering or intends to study within a reasonable time.

- T. This Ordinance is in addition to, and does not alter or supersede, the City's current ban on medical marijuana collectives and medical marijuana cultivation set forth in Chapter 5.28 and Title 16, Appendix A of the Chino Hills Municipal Code. The City Council further finds that the length of the moratorium imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the moratorium is short in duration and essential to protect the public health, safety and welfare.

SECTION 3: *Interim Regulations:* The following provisions are adopted as interim requirements for issuing permits pursuant to the Chino Hills Municipal Code for marijuana-related land uses and any construction, conversion, or other activity in the City in conflict with these provisions is expressly prohibited:

- A. **Restricted Activities.** For a period of forty-five (45) days after adoption of this Ordinance, the City will not issue a permit or land use entitlement to any person for any marijuana-related land use. City staff, including City boards and commissions, are directed to refrain from accepting or processing any application for any land use entitlement, including, without limitation, use permits, variances, building permits, licenses and certificates of occupancy, necessary for constructing, establishing, or operating a marijuana-related land use within the City, and to refrain from issuing any land use entitlement for any pending applications already received. These prohibitions will remain effective for forty-five (45) days following adoption of this Ordinance.
- B. **Definitions.** In addition to the definitions contained in the Chino Hills Municipal Code, the following words and phrases will, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Chino Hills Municipal Code, the following definitions will prevail:

"Marijuana-related land use" means any use of land that involves or includes the cultivation, processing, packaging, testing, manufacture, transportation, storage, delivery, distribution, dispensing, or selling of marijuana, marijuana accessories, or marijuana products.

"Marijuana" means all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

"Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing,

compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

“Marijuana products” means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

SECTION 4: CEQA. Exercising its independent judgment on the basis of the whole record, the City Council finds that this Ordinance is not subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines. Sections 15060(c)(2) and 15060(c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. This Ordinance has no potential for resulting in physical change to the environment directly or indirectly in that its purpose is to prevent change to the environment pending the completion of the contemplated research and evaluation of regulatory alternatives. Further, the City Council finds that this Ordinance is categorically exempt from further CEQA review under California Code Regs. Title 14, §§ 15305 (minor alterations in land use limitations) and 15308 (actions taken as authorized by local ordinance to assure protection of the environment). The ordinance amends the Chino Hills Municipal Code to expressly prohibit commercial marijuana activities and outdoor cultivation of marijuana in the City. The City is not aware of any existing marijuana commercial uses in Chino Hills and the proposed ordinance would maintain the status quo. The ordinance does not portend any development or changes to the physical environment.

SECTION 5: If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 6: The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Chino Hills’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 7: This Ordinance will become effective immediately upon adoption pursuant to Government Code § 36937(b) for the immediate preservation of the public peace, health, safety, and welfare. Pursuant to that statute, and Government Code § 65858, this Ordinance is adopted by a four-fifths vote.

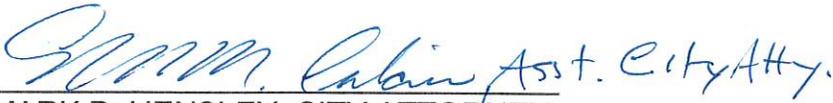
PASSED, APPROVED AND ADOPTED this 22nd day of November 22, 2016.


ART BENNETT, MAYOR

ATTEST:


CHERYL BALZ, CITY CLERK

APPROVED AS TO FORM:


MARK D. HENSLEY, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF CHINO HILLS)

I, CHERYL BALZ, City Clerk of the City of Chino Hills, DO HEREBY CERTIFY that Ordinance No. 304u was duly introduced and adopted at a regular meeting of the City Council held November 22, 2016 by the following vote, to wit:

AYES: COUNCIL MEMBERS: BENNETT, MARQUEZ, GRAHAM
MORAN, ROGERS

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE



CHERYL BALZ, CITY CLERK

I hereby certify that the foregoing is the original of Ordinance No. 304u duly passed and adopted by the Chino Hills City Council at their regular meeting held on November 22, 2016 and that the Ordinance in its entirety was published on December 3, 2016 the Chino Hills Champion newspaper.



CHERYL BALZ, CITY CLERK