



## **CITY OF EASTVALE CITY COUNCIL SPECIAL MEETING AGENDA**

**Eastvale City Hall  
12363 Limonite Avenue, Suite 910  
Eastvale, CA 91752  
Monday, November 28, 2016  
6:00 P.M.**

### **City Council Members**

**Ike Bootsma, Mayor  
Joseph Tessari, Mayor Pro Tem  
Clint Lorimore  
Adam Rush  
Richard Simmons**

**Michele Nissen, City Manager  
John Cavanaugh, City Attorney  
Steven Aguilar, Assistant City Clerk**

This Agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action or direction shall be taken on any item not appearing on the following Agenda. Unless legally privileged, all supporting documents, including staff reports, and any writings or documents provided to a majority of the City Council after this posting of this agenda are available for review at Eastvale City Hall, 12363 Limonite Avenue, Eastvale, CA 91752 or you may contact Steven D. Aguilar, Assistant City Clerk, at (951) 361-0900 Monday through Thursday from 7:30 a.m. to 5:30 p.m. and available online at [www.eastvaleca.gov](http://www.eastvaleca.gov).

*If you wish to speak before the City Council, please complete a Public Comment Form identifying which item(s) you wish to address. Please return the completed form to the Assistant City Clerk prior to being heard before the Council. Speakers Forms are available at the front table of the entryway to the Multipurpose Room.*



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the City Clerk's Office at (951) 361-0900.

Regular meetings are recorded and made available on the City's website at [www.eastvaleca.gov](http://www.eastvaleca.gov). Meeting recordings are uploaded to the City's website within 24 hours (unless otherwise noted) after the completion of the meeting and are kept on the website for 30 days.

- 1. CALL TO ORDER**
- 2. ROLL CALL/PLEDGE OF ALLEGIANCE**
- 3. PUBLIC COMMENT**

**4. CITY COUNCIL BUSINESS**

**4.1 An Urgency Ordinance of the City Council of the City of Eastvale Extending the Interim Urgency Ordinance Pursuant to California Government Code Section 65858 Regulating Personal Cultivation of Marijuana and Prohibiting Outdoor Personal Cultivation**

Submitted by: John Cavanaugh, City Attorney

RECOMMENDATION:

That the City Council extends Interim Urgency Ordinance No. 2016-09 regulating cultivation of marijuana and banning outdoor personal cultivation.

**ADJOURNMENT** – The next regular meeting of the Eastvale City Council is scheduled for Wednesday, December 14, 2016, at 6:30 p.m. at Rosa Parks Elementary School, 13830 Whispering Hills Drive, Eastvale, CA 92880.

**AFFIDAVIT OF POSTING**

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted at the following locations: City Hall, 12363 Limonite Avenue, Suite 910; Rosa Parks Elementary School, 13830 Whispering Hills Drive; Eastvale Library, 7447 Scholar Way; and website of the City of Eastvale ([www.eastvaleca.gov](http://www.eastvaleca.gov)), not less than 24 hours prior to the meeting. Dated this 22<sup>nd</sup> day of November 2016.

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Steven D. Aguilar  
Assistant City Clerk



**CITY OF EASTVALE  
CITY COUNCIL STAFF REPORT**

**ITEM 4.1**

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**DATE:** NOVEMBER 28, 2016

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS

**FROM:** CITY ATTORNEY

**SUBJECT:** AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EASTVALE EXTENDING THE INTERIM URGENCY ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 REGULATING PERSONAL CULTIVATION OF MARIJUANA AND PROHIBITING OUTDOOR PERSONAL CULTIVATION

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**RECOMMENDATION:** It is recommended that the City Council extend Interim Urgency Ordinance No. 2016-09 regulating personal cultivation of marijuana and banning outdoor personal cultivation.

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**BACKGROUND**

On November 8, 2016, voters in California approved new marijuana regulations known as the “Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). Passage of this Act can have wide sweeping impacts to local agencies.

The Council’s discussion will include a proposal for adoption of an urgency ordinance which, if approved by a four-fifths vote of the City Council, shall extend Urgency Ordinance No. 16-09 for an additional period of up to 22 months and 15 days. The proposed interim ordinance would extend the regulations involving personal cultivation of marijuana and banning outdoor personal cultivation.

The purpose of the interim ordinance is to promote the public health, safety, and welfare of the residents of the City of Eastvale.

**DISCUSSION**

On October 26, 2016, the City Council adopted a 45 day urgency land use ordinance under the authority set out in Government Code Section 65858, Ordinance No. 16-09, in order to regulate personal indoor cultivation of marijuana and ban outdoor cultivation. The Ordinance became effective when Proposition 64 passed on the November 8, 2016 statewide general election. Ordinance No. 16-09 will expire on December 10, 2016 unless extended by the City Council.



## CITY OF EASTVALE CITY COUNCIL STAFF REPORT

ITEM 4.1

On August 25, 2008, then California Attorney General Edmund G. Brown issued "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" ("Guidelines"). These Guidelines were intended to clarify the state's laws governing medical marijuana and provide clear guidance for patients and law enforcement to ensure that medical marijuana is not diverted to illicit markets. However, as reflected by the acknowledgement of the current Attorney General, Kamala Harris, these guidelines have proven to be inadequate and require revision to prevent continued abuses.

In April 2009, the California Police Chiefs Association issued a "White Paper" which explains that throughout California, many violent crimes have been committed that can be traced back to the proliferation of marijuana dispensaries, including armed robberies and murders. Increased noise and pedestrian traffic, including nonresidents in pursuit of marijuana and out of area criminals in search of prey, are commonly encountered just outside marijuana dispensaries. The City Council hereby finds the report contains persuasive anecdotal and documentary evidence that both storefront and mobile medical marijuana dispensaries pose a threat to public health, safety and welfare, and therefore this report, which is part of the record before the City in this matter, is hereby incorporated into the City Council's findings in this Ordinance.

Concerns about non-medical marijuana use in connection with medical marijuana distribution operations have been recognized by federal and state courts. One example is *People v. Leal*, 210 Cal.App.4th 829 (2012):

*Not surprisingly, it seems that the enhanced protection from arrest has proven irresistible to those illegally trafficking marijuana, for if there is even rough accuracy in the anecdotal estimate by the arresting detective in this case - that nearly 90 percent of those arrested for marijuana sales possess either a CUA recommendation or a card - then there is obviously widespread abuse of the CUA and the MMP identification card scheme by illicit sellers of marijuana. Ninety percent far exceeds the proportion of legitimate medical marijuana users one would expect to find in the populace at large. For this and other reasons, it is impossible for us not to recognize that many citizens, judges undoubtedly among them, believe the CUA has become a charade enabling the use of marijuana much more commonly for recreational than for genuine medical uses."*

A May 27, 2013 study published in the Journal of the American Medical Association Pediatrics showed that, as marijuana appears in an increasing number of homes, so too does evidence of accidental ingestion of marijuana and marijuana-infused food by young children. According to the study, more children appear to access marijuana-laced brownies, cookies and beverages sold through marijuana dispensaries, leading to increased emergency room visits. These children often suffer anxiety attacks when they start to feel unexpected symptoms of being under the influence: hallucinations, dizziness, altered perception, and impaired thinking. In addition, the study found that ingestion of highly potent marijuana by young children can suppress respiration and even induce coma.



## **CITY OF EASTVALE CITY COUNCIL STAFF REPORT**

**ITEM 4.1**

Since the approval of recreational marijuana use, the state of Colorado has had a 500% increase in citations for driving intoxicated or smoking in public places.

With the November 8, 2016 general election decided, it is unclear how the new administration will address the existing conflict between federal and state law with respect to criminal penalties involving marijuana; consequently, creating more uncertainty in this area.

Government Code Section 65858 allows the City to adopt a zoning ordinance without following the usual procedures if it is necessary to protect the public safety, health, and welfare. An urgency ordinance is allowed to bypass the usual notice and planning commission procedures to prohibit any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City is considering or intends to study. Government Code Section 65858 allows the urgency measure to be extended for either (1) 22 months and 15 days or (2) 10 months and 15 days with a subsequent additional one year extension. The proposed extension is drafted to provide for the 22 month and 15 day extension. The attached ordinance extending the urgency measure requires a 4/5 vote to enact. The next regularly scheduled City Council meeting will be on Wednesday, December 14, 2016; consequently, unless the City Council adopts this extended urgency measure prior thereto, that Ordinance will have expired.

### **FISCAL IMPACT**

There may be possible Code Enforcement and Law Enforcement costs to address violations of the proposed Ordinance.

### **STRATEGIC PLAN IMPACT**

This item does not directly affect the Strategic Plan.

### **ATTACHMENTS**

Proposed Urgency Ordinance extending Interim Urgency Ordinance No. 2016-09 regulating personal cultivation of marijuana and banning outdoor personal cultivation.

Prepared by: John Cavanaugh, City Attorney  
Reviewed by: Michele Nissen, City Manager

**URGENCY ORDINANCE NO. 2016-XX**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EASTVALE EXTENDING THE INTERIM URGENCY ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 REGULATING PERSONAL CULTIVATION OF MARIJUANA AND PROHIBITING OUTDOOR PERSONAL CULTIVATION**

THE CITY COUNCIL OF THE CITY OF EASTVALE DOES ORDAIN AS FOLLOWS:

**SECTION 1. FINDINGS**

On October 26, 2016, the City Council adopted a 45 day urgency land use ordinance under the authority set out in Government Code Section 65858, Ordinance No. 16-09, in order to regulate personal indoor cultivation of marijuana and ban outdoor cultivation. The Ordinance would only become effective in the event Proposition 64 passed on the November 8, 2016 statewide general election.

On November 8, 2016, the voters of the state of California approved Proposition 64 (also known as the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA")) which authorized both personal cultivation of marijuana plants and outdoor cultivation of marijuana.

The City Council further finds that significant health, safety and welfare issues are associated with marijuana use, sale and cultivation, some of which has been derived from experience with medical marijuana, is as follows:

(a) In 1970, Congress enacted the Controlled Substances Act ("CSA") (21 U.S.C. Section 801 et seq.) that, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana use.

(b) Marijuana still is listed as a federal Schedule 1 drug under the CSA. As a Schedule 1 drug, the CSA provides that the manufacture, cultivation, distribution, and dispensing of marijuana is illegal for any purpose, and establishes criminal penalties for marijuana use.

(c) On November 5, 1996, the voters of the State of California approved Proposition 215, codified as Health and Safety Code Section 11362.5 et seq. and entitled "The Compassionate Use Act of 1996" ("CUA"). The express intent of Proposition 215 was to enable persons who are in need of **medical** marijuana for **specified medical purposes** to obtain and use it under limited, specified circumstances.

(d) The California Legislature adopted Senate Bill 420, effective January 1, 2004, adding Article 2.5, "Medical Marijuana Program," to Division 10 of the California Health and Safety Code §11362.7 et seq. ("Medical Marijuana Program Act" or "MMPA"). The MMPA created a state-approved medical marijuana

identification card program and provided certain additional immunities from state marijuana laws.

(e) On August 25, 2008, then California Attorney General Edmund G. Brown issued "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" ("Guidelines"). These Guidelines were intended to clarify the state's laws governing medical marijuana and provide clear guidance for patients and law enforcement to ensure that medical marijuana is not diverted to illicit markets. However, as reflected by the acknowledgement of the current Attorney General, Kamala Harris, these guidelines have proven to be inadequate and require revision to prevent continued abuses.

(f) In April 2009, the California Police Chiefs Association issued a "White Paper" which explains that throughout California, many violent crimes have been committed that can be traced back to the proliferation of marijuana dispensaries, including armed robberies and murders. Increased noise and pedestrian traffic, including nonresidents in pursuit of marijuana and out of area criminals in search of prey, are commonly encountered just outside marijuana dispensaries. The City Council hereby finds the report contains persuasive anecdotal and documentary evidence that both storefront and mobile medical marijuana dispensaries pose a threat to public health, safety and welfare, and therefore this report, which is part of the record before the City in this matter, is hereby incorporated into the City Council's findings in this Ordinance.

(g) Other California cities that have permitted the establishment of medical marijuana dispensaries have experienced an increase in crime, such as burglary, robbery, and assaults; the distribution of tainted marijuana; the sale of illegal drugs in the areas immediately surrounding such medical marijuana dispensaries, collectives and cooperatives; the unavoidable exposure of school-age children and other sensitive residents to medical marijuana; fraud in issuing, obtaining, or using medical marijuana recommendations; and the diversion of marijuana for non-medical and recreational uses.

(h) Concerns about non-medical marijuana use in connection with medical marijuana distribution operations have been recognized by federal and state courts. One example is *People v. Leal*, 210 Cal.App.4th 829 (2012):

*"Not surprisingly, it seems that the enhanced protection from arrest has proven irresistible to those illegally trafficking marijuana, for if there is even rough accuracy in the anecdotal estimate by the arresting detective in this case -that nearly 90 percent of those arrested for marijuana sales possess either a CUA recommendation or a card -then there is obviously widespread abuse of the CUA and the MMP identification card scheme by illicit sellers of marijuana. Ninety percent far exceeds the proportion of legitimate medical marijuana users one would expect to find in the populace at large. For this and other reasons, it is impossible for us not to recognize that many citizens, judges undoubtedly among them, believe the CUA has become a charade enabling*

*the use of marijuana much more commonly for recreational than for genuine medical uses."*

(i) A May 27, 2013 study published in the Journal of the American Medical Association Pediatrics showed that, as marijuana appears in an increasing number of homes, so too does evidence of accidental ingestion of marijuana and marijuana-infused food by young children. According to the study, more children appear to access marijuana-laced brownies, cookies and beverages sold through marijuana dispensaries, leading to increased emergency room visits. These children often suffer anxiety attacks when they start to feel unexpected symptoms of being under the influence: hallucinations, dizziness, altered perception, and impaired thinking. In addition, the study found that ingestion of highly potent marijuana by young children can suppress respiration and even induce coma.

(j) Successful enforcement actions involving storefront dispensaries have coincided with an increase in mobile marijuana dispensaries. In parts of the state, shuttered marijuana dispensaries have converted their operations to mobile delivery services. An attorney in the region is also advising his marijuana dispensary clients to change their business model to distribution from a mobile source to avoid bans on storefront enterprises.

(k) Mobile medical marijuana dispensaries have been associated with criminal activity. Delivery drivers, for example, have been targets of armed robbers who seek cash and drugs. As a result, many of the drivers for medical marijuana dispensaries reportedly carry weapons or have armed guards as protection. Examples of such criminal activity reported in the media include the following, each of which the City Council finds contain persuasive, documented evidence that mobile medical marijuana dispensaries and deliveries pose a threat to public health, safety and welfare.

1. A West Covina deliveryman was reportedly robbed after making a delivery. The deliveryman told police that he was approached by two subjects in ninja costumes who chased him with batons and took the marijuana and money he was carrying.
2. A Temecula deliveryman was reportedly robbed of cash outside of a restaurant, which led to a vehicular chase that continued until the robbers' vehicle eventually crashed on a freeway on-ramp.
3. Marijuana deliverymen in Imperial Beach were reportedly robbed after being stopped by assailants (one with a semiautomatic handgun) after making a stop.
4. A deliveryman was reportedly robbed of three ounces of marijuana while making a delivery outside a restaurant in Riverside, and he told police that the suspect may have had a gun.

5. A deliverywoman in La Mesa was reportedly shot in the face with a pellet gun by assailants who subsequently carjacked her vehicle.

6. A marijuana delivery from a Los Angeles mobile marijuana dispensary turned deadly in Orange County when four individuals reportedly ambushed the dispensary driver and his armed security guard and tried to rob them. One of the suspects approached the delivery vehicle and confronted the driver and a struggle ensued. A second suspect armed with a handgun, approached the security guard, who fired as the suspect hitting him multiple times.

7. A deliveryman was reportedly robbed of \$20,000 worth of marijuana (approximately 9 pounds) and a cellular phone in Fullerton, and suffered a head injury during the crime.

(l) Since the approval of recreational marijuana use, the state of Colorado has had a 500% increase in citations for driving intoxicated or smoking in public places.

(m) Having reviewed the new laws, the City Council continues to believe that there is a high likelihood that personal marijuana cultivation above that allowed by law poses a significant risk of harm, including fires resulting from indoor growth in homes, odors, building code and related violations.

(n) With the November 8, 2016 general election decided, it is unclear how the new administration will address the existing conflict between federal and state law with respect to criminal penalties involving marijuana; consequently, creating more uncertainty in this area.

(o) Absent this extension to the interim Ordinance, personal cultivation both indoors and outdoors will be regulated only by state law, and may increase in the City without the adoption of this extended urgency Ordinance. The City does not wish to cede to the state its authority to regulate indoor personal marijuana cultivation or to prohibit personal outdoor cultivation, and, for all these reasons, finds that this Ordinance is necessary to preserve the public peace, health and safety of the community of Eastvale.

(p) In order to protect the public health, safety and welfare, it is necessary for the City Council to extend the interim ordinance for up to an additional 22 months and 15 days to regulate indoor personal marijuana cultivation and to prohibit personal outdoor cultivation.

(q) The adoption of this Ordinance is exempt from CEQA as it does not have any significant impact on the environment as it simply continues existing provisions of the Eastvale Municipal Code as to restrictions on marijuana cultivation.

## **SECTION 2 – EXTENSION OF URGENCY ORDINANCE IMPOSED.**

The above recitals are incorporated herein and are each relied upon independently by the City Council for its adoption of this urgency interim ordinance.

## **SECTION 3 - INDOOR MARIJUANA CULTIVATION**

### **A. Purpose and Intent.**

The City Council finds as follows:

1. Purpose. The purpose and intent of this Ordinance is to regulate the cultivation of marijuana in a manner that protects the health, safety and welfare of the community consistent with Proposition 64, also known as the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"). This Chapter is not intended to interfere with a patient's right to medical marijuana, as provided for in California Health & Safety Code Section 11362.5, nor does it criminalize medical marijuana possession or cultivation by specifically defined classifications of persons, pursuant to state law. This Ordinance is not intended to give any person unfettered legal authority to grow marijuana; it is intended simply to impose zoning restrictions on the personal indoor cultivation of marijuana permitted under AUMA when it is authorized by California state law for medical or other lawful purposes under the state law.

2. Applicability. As set out in Eastvale Municipal Code Chapter 6.36, and authorized by AB 243 (Section 11362.777 of the Health and Safety Code), marijuana cultivation remains prohibited in all zones and districts of the City of Eastvale. As a result of the passage of AUMA at the November 8, 2016 election, the cultivation of non-medical marijuana in the City shall be controlled and regulated by the provisions of this Ordinance which is an uncodified portion of the Zoning Code.

3. Non-conflicting enactment. No part of this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation.

### **B. Definitions.**

As used herein the following definitions shall apply:

1. "Authorized Grower" means a person 21 years and older who is authorized by, and in compliance with, federal or state law to cultivate marijuana indoors for personal use. There may be only one authorized grower per private residence who can present written evidence that any and all other persons 21 years old or over have authorized that person to obtain the permit referenced in E. 2 below.

2. "City" means the City of Eastvale.

3. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or otherwise processing of marijuana plants or any part thereof.

4. "Fully enclosed and secure structure" means a fully-enclosed space within a building that complies with the California Building Code ("CBSC"), as adopted in the City, or if exempt from the permit requirements of the CBSC, that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the City of Eastvale.

5. "Immature marijuana plant" means a marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

6. "Indoors" means within a fully enclosed and secure structure as that structure is defined above.

7. "Mature marijuana plant" means a marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

8. "Outdoors" means any location within the City that is not within a fully enclosed and secure structure.

9. "Parcel" means property assigned a separate parcel number by the Riverside County assessor.

10. "Private residence" means a house, apartment unit, mobile home, or other similar dwelling unit. A second unit does not constitute a "private residence."

### **C. Outdoor Cultivation.**

It is hereby declared to be unlawful, a public nuisance, and a violation of this Ordinance for any person owning, leasing, occupying, or having charge or possession of any parcel/property within any zoning district in the City to cause or allow such parcel/property to be used for the outdoor cultivation of marijuana plants.

### **D. Cultivation of Marijuana Only for Personal Use; Regulations for Residential Zones.**

1. When authorized by state law, an authorized grower shall be allowed to cultivate marijuana only in a private residence in a residential zone, only indoors, and only for personal use, subject to the following regulations:

2. The marijuana cultivation area shall be located indoors. The total area cultivated shall not exceed fifty (50) square feet and not exceed ten (10) feet in height, nor shall it come within twelve (12) inches of the ceiling or any cultivation lighting. Cultivation in a greenhouse on the property of the residence but not physically part of the home is permitted, as long as it is fully enclosed, secure, not visible from a public right-of-way and meeting all requirements in this Ordinance.

3. Marijuana cultivation lighting shall not exceed one thousand two hundred watts in total for the total cultivation area within the residence.

4. The use of gas products such as but not limited to CO<sub>2</sub>, butane, methane, or any other flammable or non-flammable gas for marijuana cultivation or processing is prohibited.

5. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence from the public right-of-way, including but not limited to any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.

6. The authorized grower shall reside full-time in the residence where the marijuana cultivation occurs.

7. The authorized grower shall not participate in marijuana cultivation in any other location within the City. There shall be only one authorized grower per private residence.

8. The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas actually utilized for their intended use by the resident authorized grower and the premises shall not be used primarily or exclusively for marijuana cultivation.

9. The marijuana cultivation area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.

10. The building official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers and may require annual or other inspections.

11. The marijuana cultivation area shall not result in a public nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

12. No more than 6 living marijuana plants, mature or immature, are permitted for indoor personal cultivation under this Ordinance.

13. Marijuana in excess of 28.5 grams produced by plants kept for indoor personal cultivation under this Ordinance must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way.

14. Outdoor cultivation of marijuana and cultivation of marijuana for non-personal uses are expressly prohibited in all zones and districts of the City.

**E. Indoor Cultivation of Marijuana Restricted to Authorized Growers.**

1. It is hereby declared to be unlawful, a public nuisance and a violation of this Ordinance for any person owning, leasing, occupying, or having charge or possession of any parcel/property within the City to cause or allow such parcel/property to be used for the cultivation of marijuana, unless the person is authorized by state law to grow marijuana for a specifically authorized purpose within a private residence in a residential zone, and such authorized grower is complying with all requirements of this Ordinance.

2. No person shall grow marijuana upon any parcel/property until and unless that person first secures a permit from the building department and pays such fee as may be required and set forth by resolution of the City Council for issuance of the permit and or inspections. Only one building permit shall be granted per private residence.

**F. Public Nuisance Prohibited.**

It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the City to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist, if such activity produces any of the following:

1. Odors which are disturbing to people of reasonable sensitivity residing or present on adjacent or nearby property or areas open to the public.

2. Repeated responses to the parcel/property by law enforcement or fire personnel.

3. A repeated disruption to the free passage of persons or vehicles in the neighborhood; excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public.

4. Any other impacts on the neighborhood which are disruptive of normal activity in the area including, but not limited to, grow lighting visible outside the dwelling, excessive vehicular traffic or parking occurring at or near the dwelling, and excessive noise emanating from the dwelling.

5. Outdoor growing and cultivation of marijuana.

**G. Penalties Not Exclusive; Violation Constitutes a Crime.**

The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any other criminal, civil, or administrative remedy or penalty authorized by, or set forth in, the Eastvale Municipal Code. None of the penalties or remedies authorized by, or set forth in, the Eastvale Municipal Code shall prevent the City from using any other penalty or remedy under state statute which may be available to enforce this

section or to abate a public nuisance. Violation of this Ordinance shall constitute a crime punishable as a misdemeanor or infraction in the discretion of the City Attorney.

**H. Prohibition on Possession and Smoking of Marijuana in City Buildings**

The possession, smoking or other use of marijuana is prohibited in buildings owned, leased or occupied by the City. As an employer, the City maintains a drug and alcohol free workplace by prohibiting the use, consumption, possession, transfer, transportation, sale, display and growth of marijuana in the workplace.

**SECTION 3 - SCOPE AND EFFECTIVE DATE**

Based on the recitals and the findings set forth hereinabove, this ordinance is adopted as an urgency ordinance pursuant to Government Code Section 65858. Based on the adverse impacts of the personal use of both indoor and outdoor cultivation of marijuana, a current and immediate threat to the public health, safety and welfare exists. This extension to the interim ordinance is necessary to alleviate and address that threat until permanent regulations can be established. There is no feasible alternative to satisfactorily mitigate or avoid said adverse impacts as well or better, with a less burdensome or restrictive effect, than the extension of the interim ordinance.

Therefore, this extension to the interim ordinance is adopted as an urgency ordinance pursuant to Government Code Section 65858 and shall take effect immediately upon the approval by a four-fifths vote of the City Council of the City of Eastvale. Upon the expiration of the 45 day initial interim ordinance period, this extension to the interim ordinance shall remain in effect for an additional 22 months and 15 days.

**SECTION 4 - SEVERABILITY**

If any section, subsection, clause, phrase, 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 shall 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 section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED THIS \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Ike Bootsma, Mayor

Attest:

\_\_\_\_\_  
Steven D. Aguilar, Assistant City Clerk

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) §  
CITY OF EASTVALE )

I, Steven D. Aguilar, Assistant City Clerk of the City of Eastvale, do hereby certify that the foregoing Ordinance Number 2016-XX was duly and regularly adopted by the City Council of the City of Eastvale at a special meeting held the 28<sup>th</sup> day of November, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Steven D. Aguilar, Assistant City Clerk