

ORDINANCE NO. 40-09 N.S.

AN URGENCY ORDINANCE, PURSUANT TO GOVERNMENT CODE SECTION 65858, BY THE CITY OF RICHMOND, ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING AND APPROVAL OF APPLICATIONS AND PERMITS FOR MEDICAL MARIJUANA ESTABLISHMENTS

WHEREAS, Government Code Section 65858 allows a City, including a charter city, without following the procedures otherwise required prior to adoption of a zoning ordinance, to adopt, as an urgency measure, an interim ordinance prohibiting any uses which may be in conflict with any contemplated general plan, specific plan, or zoning ordinance amendment proposal which the legislative body, planning commission, or planning department is intending to study within a reasonable time; and

WHEREAS, the City of Richmond Planning and Building Services Department (“Planning Department”) is in the process of studying proposed amendments to the City’s Zoning Ordinance related to medical marijuana dispensaries and cooperatives; and

WHEREAS, the City Council finds and determines that the approval of applications for medical marijuana dispensaries or cooperatives while possible amendments to the Zoning Ordinance are being studied could result in conflicts with any proposed amendments and would undermine the purpose of studying such amendments, thereby reducing the quality of life within the community to the extent that overall public health, safety and welfare are detrimentally affected; and

WHEREAS, citizens of the City of Richmond have expressed concerns regarding the inadequacy of the current regulations to address the increasing number of unpermitted medical marijuana dispensaries and cooperatives operating within the City and the impact of such establishments on the community as a whole, including safety, noise, litter and other public health and welfare impacts; and

WHEREAS, it is the intent of the Richmond City Council to consider and adopt new zoning regulations pertaining to medical marijuana dispensaries and cooperatives in order to provide clear, consistent, and uniform guidance to businesses and individuals regarding the siting and operating characteristics of such establishments, if permitted, while addressing the significant community concerns described above; and

WHEREAS, the Richmond City Council has determined that a temporary moratorium on the approval of applications to establish medical marijuana dispensaries or cooperatives within the City will allow the City time to complete its review and revisions to its Zoning Ordinance while ensuring to the maximum extent feasible that the siting requirements and other objectives of the revised ordinance may be achieved; and

WHEREAS, for reasons set forth above, this ordinance is declared by the Richmond City Council to be necessary for preserving the public peace, health, or safety and to avoid a current, immediate and direct threat to the health, safety, or welfare of the community, and the recitals above taken together constitute the City Council’s statements of the reasons constituting such necessity and urgency; and

WHEREAS adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15061(b)(3), 15308, and 15183.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND does ordain as follows:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them part of this ordinance.

SECTION 2. The City Council hereby directs the Planning and Building Services Department to confer with the Police Department and the City Attorney

regarding the legal implications of permitting medical marijuana dispensaries and cooperatives then to prepare two proposals for Council consideration: (a) a zoning amendment that explicitly prohibits medical marijuana dispensaries and cooperatives in the City of Richmond, and (2) a zoning amendment governing the siting and operating characteristics of medical marijuana dispensaries or cooperatives. Both proposals are to be presented to the City Council as soon as possible.

SECTION 3. For the maximum period allowed under California law, or until such time as the City concludes the review described above and amends the Zoning Ordinance to address medical marijuana dispensaries and cooperatives, the City of Richmond hereby declares a moratorium on the acceptance, processing and approval of applications to establish medical marijuana dispensaries and cooperatives in any zoning district within the City.

SECTION 4. In accordance with Government Code Section 65858, this Ordinance is effective immediately as an interim urgency ordinance and shall be in full force and effect for a period of 45 days from the date of its adoption. This 45-day period may be extended by the City Council in accordance with the provisions of California Government Code Section 65858.

SECTION 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that they would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

Finally passed and adopted at a regular meeting of the Council of the City of Richmond held, December 1, 2009, by the following vote:

AYES: Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin
NOES: None
ABSTENTIONS: None
ABSENT: None

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

I certify that the foregoing is a true copy of **Ordinance No. 40-09**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on December 1, 2009.