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1 cooperative or collective ... civil and criminal enforcement of local ordinances; [and] ... other laws
2 consistent with this articles (H&S Code 11362.83.); and

3 6. The California Supreme Court has established that neither the CUA nor the MMP
4 preempts local regulation in the case of *City of Riverside v. Inland Empire Patients Health and*
5 *Wellness Center, Inc.*, 56 Cal.4th 729 (2013); and

6 7. The exact number of delivery services operating in California is unclear, since the
7 state does not keep a registry of mobile medical marijuana distributors. In March of 2013, over 30
8 services within 20 miles of Rialto advertised direct delivery of marijuana on "Weedmaps.com", an
9 internet commercial listing service. By May 29, 2013, 50 services within 20 miles of Rialto
10 advertised direct delivery of marijuana on "Weedmaps.com." Most deliver within the Rialto City
11 limits; and

12 8. An increase in mobile dispensaries has been found to coincide with successful
13 enforcement actions involving storefront dispensaries. In other parts of the state, shuttered businesses
14 turned to delivery services instead. There is reason to expect the same in the City of Rialto,
15 particularly in light of the recent Supreme Court ruling that a City's ban on dispensaries is valid and
16 the City's willingness to cooperate with federal law enforcement operations; and

17 9. On a number of occasions, the Rialto Police Department has conducted under-cover
18 operations in which officers have used an online service to identify mobile marijuana dispensaries.
19 Although the dispensaries were located outside the City of Rialto, they immediately agreed to sell
20 marijuana products and deliver them within the City of Rialto; and

21 10. It appears that more and more mobile marijuana dispensaries are popping up in areas
22 where they are willing to sell to customers located in the City of Rialto, possibly leading to greater
23 availability of marijuana products in our community; and

24 11. An Inland Empire attorney who describes himself as one who represents "California
25 dispensary clients battling local government roadblocks" has been advising his marijuana dispensary
26 clients to change their business models as a result of the California Supreme Court decision so that
27 marijuana is distributed from a mobile source. This attorney has represented dispensaries operating
28 in the City of Rialto; and

1 12. Mobile dispensaries have been associated with criminal activity. Delivery drivers, for
2 example, are targets of armed robbers who seek cash and drugs. As a result, many of the drivers
3 reportedly carry weapons or have armed guards as protection. Examples of such criminal activity
4 reported in the media include the following:

5 a. In March of 2013, a West Covina deliveryman was reportedly robbed
6 after making a delivery. The deliveryman told police that he was approached by two subjects in ninja
7 costumes who chased him with batons. He was scared and dropped a bag with some marijuana and
8 money, which was taken by the suspects.

9 b. In February of 2013, a Temecula deliveryman was reportedly robbed of
10 cash outside of a Denny's restaurant, which led to a vehicular chase that continued until the robbers'
11 vehicle eventually crashed on a freeway on ramp.

12 c. In January of 2013, marijuana deliverymen in Imperial Beach were
13 reportedly robbed after being stopped by assailants (one of whom brandished semi-automatic
14 handgun) after making a stop.

15 d. In January of 2013, a deliveryman was reportedly robbed of three
16 ounces of marijuana while making a delivery outside a Carl's Jr., restaurant in Riverside, and he told
17 police that the suspect may have had a gun.

18 e. In May of 2012, a 23-year-old deliverywoman in La Mesa was
19 reportedly shot in the face with a pellet gun. After running away, the assailants carjacked her vehicle.

20 f. In August of 2011, a medical marijuana deliveryman was reportedly
21 robbed of \$20,000 worth of marijuana (approximately 9 pounds) and a cellular phone in Fullerton.
22 The driver suffered a head cut during the crime.

23 g. In June 2011, a marijuana delivery from a Los Angeles mobile
24 dispensary turned deadly in Orange County when four individuals reportedly ambushed the mobile
25 dispensary driver and his armed security guard and tried to rob them. One of the suspects approached
26 the delivery vehicle and confronted the driver and a struggle ensued. A second suspect armed with a
27 handgun approached the security guard, who fired at the suspect hitting him multiple times.

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1 h. In April of 2011, a customer reportedly made arrangements for a
2 medical marijuana deliveryman to meet him in a Safeway parking lot in Salinas. The deliveryman
3 had about \$1,000 in cash and 1.5 pounds of marijuana. As the deliveryman began weighing the
4 order, he looked up and saw a silver handgun in his face. The customer stole the money and
5 marijuana. The judge sentenced the customer to five years in state prison.

6 i. In May of 2010, a college student who delivers medical marijuana
7 door-to-door was reportedly robbed at gunpoint in Richmond. The assailants took \$1,000 in cash and
8 a pound of marijuana.

9 13. A recent study published on May 27, 2013, in *JAMA Pediatrics* showed that as
10 marijuana appears in an increasing number of homes, so too does evidence of accidental ingestion of
11 marijuana and marijuana-infused food by young children. More children appear to have access to
12 marijuana-laced brownies, cookies and beverages sold through marijuana dispensaries, leading to
13 increased emergency room visits. The results can be frightening to children, who often suffer anxiety
14 attacks when they start to feel unexpected symptoms of being high: hallucinations, dizziness, altered
15 perception and impaired thinking. Ingestion of highly potent marijuana by young children can
16 suppress respiration and even induce coma, according to the study. It is believed that the continued
17 proliferation of mobile dispensaries will provide children greater access to cookies, candies, brownies
18 and beverages that contain marijuana without warning labels or child-resistant containers.

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

22 *"Not surprisingly, it seems that the enhanced protection from arrest has proven irresistible to*
23 *those illegally trafficking marijuana, for if there is even rough accuracy in the anecdotal*
24 *estimate by the arresting detective in this case – that nearly 90 percent of those arrested for*
25 *marijuana sales possess either a CUA recommendation or a card – then there is obviously*
26 *widespread abuse of the CUA and the MMP identification card scheme by illicit sellers of*
27 *marijuana. Ninety percent far exceeds the proportion of legitimate medical marijuana users*
28 *one would expect to find in the populace at large. For this and other reasons, it is impossible*

1 *for us not to recognize that many citizens, judges undoubtedly among them, believe the CUA*
2 *has become a charade enabling the use of marijuana much more commonly for recreational*
3 *than for genuine medical uses;" and*

4 15. Despite the Compassionate Use Act and the Medical Marijuana Program, the United
5 States Attorneys in California have all taken action to enforce the federal Controlled Substances Act
6 against marijuana dispensaries, and have issued letters stating that California cities and officials face
7 possible criminal prosecution for enabling dispensaries to violation federal law; and

8 16. The City of Rialto, by and through its City Council, has and may exercise all powers
9 necessary to ensure the general welfare of its inhabitants; and

10 17. There exists a current and immediate threat to public health, safety, and welfare in the
11 absence of the City adopting an ordinance prohibiting establishment, operation, and use of mobile
12 marijuana dispensaries; and

13 18. It is the purpose and intent of this Ordinance prohibiting all mobile marijuana
14 dispensaries to promote health, safety, morals, and general welfare of residents and businesses within
15 the City; and

16 19. The failure to prohibit mobile marijuana dispensaries or medical marijuana
17 dispensaries will expose the City to costs related to regulation, enforcement, and the negative
18 secondary effects of dispensaries including an increase in violent crime.

19 Section 2. The City Council has determined that there is a high likelihood that mobile
20 marijuana dispensaries will immediately flourish in the City without the adoption of this Ordinance.
21 The City Council finds that this Ordinance is necessary for preserving the public peace, health, or
22 safety.

23 Section 3. Chapter 9.45 is hereby added to the Rialto Municipal Code as follows:

24 **Chapter 9.45**

25 **MOBILE MARIJUANA DISPENSARIES**

26 **Sections:**

27 **9.45.010 Definitions.**

28 **9.45.020 Mobile Marijuana Dispensaries Prohibited.**

1 **9.45.030 Marijuana Delivery Prohibited.**

2 **9.45.040 Excluded Operations.**

3 **9.45.050 Public Nuisance Declared.**

4 **9.45.060 Violations.**

5 **9.45.010 Definitions.**

6 The following words and phrases shall, for the purposes of this chapter, have the meanings
7 respectively ascribed to them by this section, as follows:

8 “Mobile Marijuana Dispensary” means any clinic, cooperative, club, business or group which
9 transports or delivers, or arranges the transportation or delivery, of medical marijuana to a Person.

10 “Person” means any person, firm, corporation, association, club, society, or other
11 organization. The term Person shall include any owner, manager, proprietor, employee, volunteer or
12 salesperson.

13 “Operation” means any effort to locate, operate, own, lease, supply, allow to be operated, or
14 aid, abet or assist in the operation of a Mobile Marijuana Dispensary.

15 **9.45.020 Mobile Marijuana Dispensaries Prohibited.**

16 Mobile Marijuana Dispensaries are prohibited in the City of Rialto. No person shall locate,
17 operate, own, suffer, allow to be operated, or aid, abet or assist in the operation of any Mobile
18 Marijuana Dispensary within the City.

19 **9.45.030 Marijuana Delivery Prohibited.**

20 (a) No Person shall deliver marijuana to any location within the City from a Mobile
21 Marijuana Dispensary, regardless of where the Mobile Marijuana Dispensary is located, or engage in
22 any Operation for this purpose.

23 (b) No Person shall deliver any marijuana-infused product such as tinctures, baked goods,
24 or other consumable products, to any location within the City from a Mobile Marijuana Dispensary,
25 regardless of where the Mobile Marijuana Dispensary is located, or engage in any Operation for this
26 purpose.

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1 **9.45.040 Public Nuisance Declared.**

2 Operation of any Mobile Marijuana Dispensary within the City in violation of the provisions
3 of this chapter is hereby declared a public nuisance and shall be abated pursuant to all available
4 remedies.

5 **9.45.050 Violations.**

6 Any violation of this Chapter is a misdemeanor and may be punished pursuant to Chapter 1.16
7 of this Code. Any violation is also subject to Chapter 1.10 of this Code as well as any other
8 applicable municipal or state law.

9 Section 4. This ordinance is not a project within the meaning of Section 15378 of the
10 State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for
11 resulting in physical change in the environment, directly or indirectly. In the event that this Ordinance
12 is found to be project under CEQA, it is subject to the CEQA exemption contained in CEQA
13 Guideline section 15061(b)(3) because it can be seen with certainty to have no possibility of a
14 significant effect on the environment.

15 Section 5. Effective Date. This Ordinance shall become effective thirty (30) days from its
16 adoption.

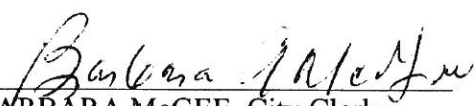
17 Section 6. Publication. The City Clerk shall certify the adoption of this Ordinance and
18 cause it, or a summary of it, to be published in a newspaper of general circulation printed and
19 published within the City of Rialto, pursuant to all applicable legal requirements.

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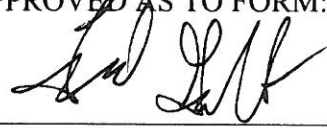
PASSED, APPROVED, AND ADOPTED this 25th day of February, 2014.


DEBOARH ROBERTSON, Mayor

ATTEST:


BARBARA McGEE, City Clerk

APPROVED AS TO FORM:


FRED GALANTE, City Attorney

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF RIALTO)

4 I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing
5 Ordinance No. 1540 was duly passed and adopted at a regular meeting of the City Council of the City
6 of Rialto held on the 25th day of February, 2014.

7 Upon motion of Councilmember Palmer, seconded by Councilmember Baca Jr., the foregoing
8 Ordinance No. 1540 was duly passed and adopted.

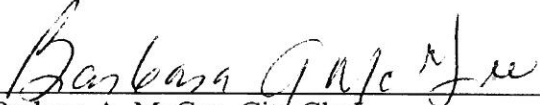
9 Vote on the Motion:

10 AYES: Mayor Robertson, Council Members: Palmer, Baca Jr., O'Connell, Hirtz

11 NOES: None

12 ABSENT: None

13 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
14 Rialto, this 14th day of March, 2014.

15 
16 Barbara A. McGee, City Clerk