

ORDINANCE NO. 24-01

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EASTVALE,
CALIFORNIA, AMENDING SECTION 120.04.150 (CANNABIS FACILITIES,
CULTIVATION, AND DELIVERIES) TO THE EASTVALE MUNICIPAL CODE**

WHEREAS, Assembly Bill 1684 went into effect January 1, 2024, and made certain amendments to the statute governing the City's ability to impose administrative fines or penalties on the unlicensed cultivation, manufacturing, processing, distribution, or retail sale of cannabis.

WHEREAS, Eastvale Municipal Code ("EMC") § 120.04.150 explicitly prohibits most commercial cannabis activity in the City, including but not limited to cannabis cultivation, cannabis distribution, cannabis transportation, cannabis storage, manufacturing of cannabis products, cannabis processing, the sale of any cannabis or cannabis products for adult-use, and the operation of a cannabis microbusiness.

WHEREAS, Assembly Bill 1684 limits the fines and penalties that cities may impose on violators of a city's cannabis regulations at \$1,000 per violation and \$10,000 per day, but permits cities to levy larger fines if authorized by another section of state law or after the city has given the violator notice and reasonable time to correct the violation.

WHEREAS, Assembly Bill 1684 requires that any ordinance pursuant to Assembly Bill 1684 provide for a reasonable amount of time for a person to correct or remedy the violation before any fines or penalties are imposed if (1) the rental property owner or agent can show the rental or lease agreement prohibits the commercial cannabis activity (not just the cultivation activities noted in current law); and (2) the rental property owner or agent did not know the tenant was engaging in unlicensed commercial cannabis activity for which a license was required and no complaint, property inspection, or other information alerted the rental property owner or agent to the illegal commercial cannabis activity (not just the cultivation activities noted in current law).

WHEREAS, the City of Eastvale has been complying with the State law as amended, and the purpose of this Ordinance is to amend the City's administrative fine structure for unlicensed cannabis activity to be consistent with current State law requirements.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EASTVALE DOES ORDAIN AS
FOLLOWS:**

SECTION 1. Amendment of Section 120.04.150. Paragraphs (e) and (f) of Section 120.04.150 (Cannabis facilities, cultivation, and deliveries) of the Eastvale Municipal Code are amended to read as follows:

"(e) Violation. Violation of any provision of this section is a misdemeanor subject to enforcement remedies and penalties, including but not limited to those as set forth in Eastvale Municipal Code Chapter 1.01. Any enforcement officer may issue an administrative citation and fine for a

violation of this section without prior issuance of a Notice of Violation, as provided in Section 8.17.040 of this Code, and the administrative fine shall be up to one thousand dollars (\$1,000.00) per violation. For the purposes of subsection (d), each cannabis plant present in violation of this section is a separate violation. The property owner and each owner of the occupant business entity engaging in commercial cannabis activity in violation of this section shall be jointly and severally liable for all penalties and fines.

Each and every day a violation of this section exists shall constitute a separate and distinct violation. Aggregate fines shall not exceed ten thousand dollars (\$10,000.00) per day if administrative fines are imposed immediately without prior issuance of a Notice of Violation.

If the City imposes fines immediately, the property owner or their agent shall have 5 days in which to submit evidence to the City of the following: i) a tenant is in possession of the property, ii) the rental or lease agreement with the tenant prohibits commercial cannabis activity, and iii) the property owner or agent did not know the tenant was engaging in illegal commercial cannabis activity and no complaint, property inspection, or other information alerted the rental property owner or agent to the illegal commercial cannabis activity.

The City Manager or their designee must determine whether the evidence submitted by the property owner or rental agent proves items i, ii, and iii above to be true. If the City Manager or their designee so finds, the City will suspend the fines and provide the property owner or their agent with 10 days to remedy the violations before fines are reinstated.

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 law.

(f) *Civil penalties.* Any violation of this section is declared to be a public nuisance per se and contrary to the public interest and will at the discretion of the city, be subject to a cause of action for injunctive relief. In addition to any other method of enforcement, the city attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this section. In any civil action brought pursuant to this section, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. The City may refer cases involving unlicensed commercial cannabis activity to the Attorney General to undertake civil enforcement action as authorized by the Government Code."

SECTION 2. Severability. If any chapter, subsection, subdivision, sentence, 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 will 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 Chapter, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more Sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 3. Effective Date. This ordinance shall take effect thirty (30) days after its passage by the City Council.

SECTION 4. City Clerk Action. The City Clerk is authorized and directed to cause this Ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Chapter 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and pasting procedure authorized under Government Code Chapter 39633(c).

PASSED, APPROVED AND ORDAINED this 24th day of January, 2024.


Christian Dinco
Mayor

APPROVED AS TO FORM:


Erica Vega
City Attorney

ATTEST:


Marc A. Donohue, MMC
City Clerk/Communications Director

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

I, Marc A. Donohue, City Clerk/Communications Director of the City of Eastvale, California, do hereby certify that the foregoing Ordinance No. 24-01, was introduced at a regular meeting of the City Council of the City of Eastvale held on the 10th day of January, 2024, and was passed by the City Council of the City of Eastvale at a regular meeting held on the 24th day of January, 2024, by the following vote:

AYES: Councilmembers Lorimore, Rigby, Yow, Mayor Pro Tem McMinn, and Mayor Dinco

NOES:

ABSENT:

ABSTAIN:

A handwritten signature in black ink, appearing to read 'MAD', is written above a horizontal line.

Marc A. Donohue, MMC
City Clerk/Communications Director