

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

937



**FROM:** TLMA and County Counsel

**SUBMITTAL DATE:**  
May 7, 2015

**SUBJECT:** Ordinance No. 348.4802 and Ordinance No. 925 Prohibiting Marijuana Cultivation and Declaring Marijuana Cultivation to be a Public Nuisance [All Districts - \$0] –CEQA EXEMPT


**RECOMMENDED MOTION:** That the Board of Supervisors open the public hearing and at the close of the public hearing:

1. Find Ordinance Nos. 348.4802 and 925 are not a project under CEQA per CEQA Guidelines sections 15060(c)(3) and 15378 and are otherwise exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15308 based on the findings and conclusions contained in the attached Planning Department staff report and Notice of Exemption; and
2. Adopt Ordinance No. 348.4802, an ordinance of the County of Riverside amending Ordinance No. 348 related to zoning, based upon the findings and conclusions incorporated in the attached Planning Department staff report; and
3. Introduce and adopt on successive weeks Ordinance No. 925, an ordinance of the County of Riverside prohibiting marijuana cultivation and declaring marijuana cultivation to be a public nuisance.

(continued on page 2)

Departmental Concurrence


  
\_\_\_\_\_  
Gregory P. Priamos  
County Counsel

  
\_\_\_\_\_  
Juan C. Perez  
TLMA Director

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost:</b>	<b>POLICY/CONSENT (per Exec. Office)</b>
<b>COST</b>	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
<b>NET COUNTY COST</b>	\$ N/A	\$ N/A	\$ N/A	\$ N/A	
<b>SOURCE OF FUNDS:</b>				<b>Budget Adjustment:</b> N/A	
				<b>For Fiscal Year:</b> N/A	

**C.E.O. RECOMMENDATION:**

APPROVE

BY:   
Tina Grande

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

- A-30
- Positions Added
- 4/5 Vote
- Change Order

Prev. Agn. Ref.: 3-1 of 11/25/14

District: ALL

Agenda Number:

**16-2**

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
**FORM 11: Ordinance No. 348.4802 and Ordinance No. 925 Prohibiting Marijuana Cultivation and Declaring Marijuana Cultivation to be a Public Nuisance [All Districts - \$0] –CEQA EXEMPT**  
**DATE: May 7, 2015**  
**PAGE: Page 2 of 4**

**BACKGROUND:**

**Summary**

On November 25, 2014, the Board of Supervisors approved agenda item 3-1 directing staff to prepare an amendment to Ordinance No. 348 clarifying that cultivation of marijuana is expressly prohibited in all zones in the County with limited exemptions from enforcement for medical marijuana cultivation under specified conditions and standards in certain identified zones. Per the Board's direction, the specified conditions and standards under which the cultivation of medical marijuana would be exempted from enforcement would be set forth in a new separate ordinance. County Counsel, Planning, and Code Enforcement have consulted with the Sheriff's Department, Executive Office and the Public Health Officer in preparation of the following ordinances consistent with the Board's November 2014 order.

**ORDINANCE NO. 348.4802** - Ordinance No. 348.4802 adds new provisions to Ordinance No. 348 (Section 3.4) clarifying that cultivation of marijuana is prohibited in all zone classifications throughout the unincorporated area of the County and that no permit of any type shall be issued for marijuana cultivation. Ordinance No. 348.4802 further provides that there shall be a limited exemption from enforcement for violations of the ordinance for marijuana cultivation in the following zone classifications in conjunction with a one-family dwelling if such marijuana cultivation complies with the conditions and standards set forth in a separate nuisance ordinance, Ordinance No. 925: Light Agriculture (A-1), Heavy Agriculture (A-2), Light Agriculture with Poultry (A-P), Citrus Vineyard (C/V), Natural Assets (N-A), One-Family Dwellings (R-1), One-Family Dwellings Mountain Resort (R-1A), Multiple-Family Dwellings (R-2), Limited Multiple-Family Dwellings (R-2A), General Residential (R-3), Village Tourist Residential (R-3A), Planned Residential (R-4), Residential Incentive (R-6), Residential Agricultural (R-A), Regulated Development (R-D), Rural Residential (R-R), Mobile Home Subdivisions and Mobile Home Parks (R-T), Mobile Home Subdivision Rural (R-T-R), Controlled Development Areas (W-2), Controlled Development Area with Mobile Homes (W-2-M), Wine Country – Winery (WC-W), Wine Country – Winery Existing (WC-WE), Wine Country – Equestrian (WC-E), Wine Country – Residential (WC-R), and Specific Plan (SP) when the underlying zone classification for that particular SP is one of the other zone classifications identified above. Ordinance No. 348.4802 also amends Section 3.3 of Ordinance No. 348 to state that any use that is illegal under State or Federal law is not allowed under Ordinance No. 348. Additionally, Ordinance No. 348.4802 adds the previously adopted Wine Country zoning classifications to the list of zones set forth in Section 3.1 of Ordinance No. 348.

Ordinance No. 348.4802 was reviewed and recommended for approval by the Planning Commission on April 15, 2015.

**ORDINANCE NO. 925** – Ordinance No. 925 declares marijuana cultivation, either indoors or outdoors, upon any premises within all unincorporated areas to be prohibited and a public nuisance subject to abatement and administrative and civil penalties. As directed by the Board, Ordinance No. 925 states that the County is committed to making efficient and rational use of its limited investigative and prosecutorial resources and that there shall be a limited exemption from enforcement for violations of the ordinance by primary caregivers and qualified patients for small amounts of marijuana cultivation for their own medical use in zone classifications identified in Section 3.4 of Ordinance No. 348 when all of the following conditions and standards are complied with:

1. The premises shall contain a legally permitted one-family dwelling.
2. Cultivation of no more than twelve (12) marijuana plants per qualified patient. In the event a qualified patient has a primary caregiver cultivating marijuana plants for the qualified patient, only one primary caregiver may cultivate no more than twelve (12) marijuana plants for that qualified patient at any one time. In no circumstances shall a qualified patient have multiple primary caregivers cultivating marijuana plants for the qualified patient at the same time.

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
**FORM 11: Ordinance No. 348.4802 and Ordinance No. 925 Prohibiting Marijuana Cultivation and Declaring Marijuana Cultivation to be a Public Nuisance [All Districts - \$0] –CEQA EXEMPT**  
**DATE: May 7, 2015**  
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3. Two (2) qualified patient limit to aggregate marijuana plant count for a maximum total of twenty-four (24) marijuana plants per premises.
4. At least one qualified patient or one primary caregiver must live on the premises.
5. All marijuana plants must be reasonably secured to prevent access by minors or theft, to a standard satisfactory to the enforcement officer.
6. All marijuana cultivation outside of any building must be fully enclosed by an opaque fence at least six feet in height. The fence must be adequately secure to prevent unauthorized entry. Bushes, hedgerows, plastic sheeting, tarps, or cloth material shall not constitute an adequate fence under this subsection. Premises larger than five (5) acres are exempt from this fencing provision so long as all other standards and conditions are complied with and any barriers used are otherwise consistent with Ordinance No. 457 and Ordinance No. 348.
7. Each building or outdoor area in which the marijuana plants are cultivated shall be set back at least ten (10) feet from all boundaries of the premises. Such setback distance shall be measured in a straight line from the building in which the marijuana plants are cultivated, or, if the marijuana plants are cultivated in an outdoor area, from the fence required by subsection 6. to the boundary line of the premises.
8. The designated marijuana cultivation area must not be visible from any public right-of-way.
9. If the person cultivating marijuana plants on any premises is not the owner of the premises, such person shall submit a letter from the owner(s) consenting to the marijuana cultivation on the parcel. This letter shall be examined by the enforcement officer, and shall then be returned to the submitter. The County shall prescribe forms for such letters.
10. Parolees or probationers shall not live on the premises unless the parolee or probationer has received confirmation from the court that he or she is allowed to use medical marijuana while on parole or probation pursuant to Health & Safety Code section 11362.795 which shall be subject to verification by the enforcement officer.
11. Qualified patients for whom the marijuana plants are being cultivated shall have valid Medical Marijuana Identification Cards issued by the Riverside County Department of Public Health. Any primary caregiver cultivating marijuana plants for a qualified patient shall have a copy of the qualified patient's valid Medical Marijuana Identification Card issued by the Riverside County Department of Public Health which shall be kept on the premises.
12. The address for the premises must be posted and plainly visible from the public right-of-way.
13. The marijuana cultivation shall not be within a multi-dwelling building.
14. The marijuana cultivation shall not be upon any premises located within one thousand (1,000) feet of any school, community center, or park.
15. The marijuana cultivation shall not be upon any premises containing a child care center, church, or youth-oriented facility.

Under Ordinance No. 925, any marijuana cultivation that does not comply with all of the above standards and conditions shall be subject to nuisance abatement enforcement and penalties. Ordinance No. 925 also contains sections regarding abatement of unlawful marijuana cultivation and appeals hearings, summary abatements, recovery of abatement costs and attorneys' fees, authorization for the placement of special assessments and liens, treble damages, misdemeanor penalties, and enforcement by civil actions. Ordinance No. 925 allows for administrative civil penalties of up to \$1000 per day for violations of the ordinance and contains sections regarding appeal and judicial review of administrative civil penalties, as well as collection of such penalties.

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
**FORM 11: Ordinance No. 348.4802 and Ordinance No. 925 Prohibiting Marijuana Cultivation and Declaring**  
**Marijuana Cultivation to be a Public Nuisance [All Districts - \$0] –CEQA EXEMPT**  
**DATE: May 7, 2015**  
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Ordinance No. 348.4802 and 925 are not intended as, and should not be construed as, a legalization of marijuana under any circumstances but are an attempt to prioritize the County's civil abatement, prosecutorial and public safety resources with regard to marijuana cultivation. Under no circumstances will the County issue any types of land use permits or entitlements authorizing marijuana cultivation.

Ordinance Nos. 348.4802 and 925 are not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines sections 15060(c)(3) and 15378 and are otherwise exempt from the provisions of CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15308 as set forth in the attached Notice of Exemption.

**Impact on Citizens and Businesses**

The proliferation of large-scale marijuana cultivation increases the risk of criminal activity, degradation of the natural environment and often results in illegal electrical and water connections and alterations. Large-scale marijuana cultivation also creates increased nuisance impacts to neighboring properties. The purpose of these ordinances are to provide for greater enforcement against large-scale marijuana cultivation with the goal of improving community livability and protecting public health, safety and welfare, while also recognizing a limited enforcement exemption for small amounts of marijuana cultivated for medical uses by registered medical marijuana patients. While the enforcement of these ordinances may result in increased unknown departmental costs, recovery of abatements costs are authorized under the ordinances including the placement of special assessments and liens for recovery of such costs.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

N/A

**Attachments:**

1. Ordinance No. 348.4802
2. Ordinance No. 925
3. Planning Commission Minute Order from April 15, 2015
4. Planning Department Staff Report
5. CEQA Notice of Exemption

ORDINANCE NO. 348.4802  
AN ORDINANCE OF THE COUNTY OF RIVERSIDE  
AMENDING ORDINANCE NO. 348  
RELATING TO ZONING

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. Section 3.1 of Ordinance No. 348 is amended to add the following zone classifications:

- “WC-W Wine Country – Winery
- WC-WE Wine Country – Winery Existing
- WC-E Wine Country – Equestrian
- WC-R Wine Country – Residential”

Section 2. Section 3.3 of Ordinance No. 348 is amended to read as follows:

“SECTION 3.3. USES ALLOWED IN ZONE CLASSIFICATIONS. The terminology used in Section 3.1 of this ordinance is general only and is not intended to be descriptive of all uses allowed in the zone classifications. The zone classifications are specifically set forth in subsequent articles of this ordinance to which reference should be made to determine all the uses permitted therein. When a use is not specifically listed as permitted or conditionally permitted in a zone classification, the use is prohibited unless, in circumstances where this ordinance empowers him to do so, the Planning Director makes a determination that the use is substantially the same in character and intensity as those uses permitted or conditionally permitted in the zone classification. Nothing in this ordinance shall be construed to allow a use that is otherwise illegal under State or Federal law.”

Section 3. A new Section 3.4 of Ordinance No. 348 is added to read as follows:

“SECTION 3.4. MARIJUANA DISPENSARIES AND MARIJUANA CULTIVATION PROHIBITED. In no event shall a medical marijuana dispensary or marijuana cultivation, as the terms are defined in this ordinance, be considered permitted or conditionally permitted uses in any zone classification. A medical marijuana dispensary is prohibited in all zone classifications and no permit of any type shall be issued therefor. Marijuana

1 cultivation is prohibited in all zone classifications and no permit of any type shall be issued  
2 therefor. There shall be a limited exemption from enforcement for violations of this  
3 section for marijuana cultivation in the following zone classifications in conjunction with a  
4 one-family dwelling if such marijuana cultivation complies with the conditions and  
5 standards set forth in Ordinance No. 925: Light Agriculture (A-1), Heavy Agriculture (A-  
6 2), Light Agriculture with Poultry (A-P), Citrus Vineyard (C/V), Natural Assets (N-A),  
7 One-Family Dwellings (R-1), One-Family Dwellings Mountain Resort (R-1A), Multiple-  
8 Family Dwellings (R-2), Limited Multiple-Family Dwellings (R-2A), General Residential  
9 (R-3), Village Tourist Residential (R-3A), Planned Residential (R-4), Residential Incentive  
10 (R-6), Residential Agricultural (R-A), Regulated Development (R-D), Rural Residential  
11 (R-R), Mobile Home Subdivisions and Mobile Home Parks (R-T), Mobile Home  
12 Subdivision Rural (R-T-R), Controlled Development Areas (W-2), Controlled  
13 Development Area with Mobile Homes (W-2-M), Wine Country – Winery (WC-W), Wine  
14 Country – Winery Existing (WC-WE), Wine Country – Equestrian (WC-E), Wine Country  
15 – Residential (WC-R), and Specific Plan (SP) when the underlying zone classification for  
16 that particular SP is one of the other zone classifications identified in this Section.”

17 Section 4. A new Section 21.51j. is added to Ordinance No. 348 to read as follows:

18 “SECTION 21.51j. MARIJUANA CULTIVATION. The planting, growing, harvesting,  
19 drying, processing, or storage of one or more marijuana plants or any part thereof in any  
20 location, indoor or outdoor, including from within a fully enclosed and secure building.  
21 Marijuana plant, as used herein, includes any mature or immature marijuana plant, or any  
22 marijuana seedling.”

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ORDINANCE NO. 925

AN ORDINANCE OF THE COUNTY OF RIVERSIDE

PROHIBITING MARIJUANA CULTIVATION AND

DECLARING MARIJUANA CULTIVATION TO BE A NUISANCE

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. FINDINGS AND PURPOSE. The Board of Supervisors finds and declares the following:

- a. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled “The Compassionate Use Act of 1996”).
- b. The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.” The ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere.”
- c. In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 et seq., and referred to as the “Medical Marijuana Program”) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to



1 “[a]dopt local ordinances that regulate the location, operation, or  
2 establishment of a medical marijuana cooperative or collective” and to  
3 civilly and criminally enforce such ordinances.

4 d. In *City of Riverside v. Inland Empire Patients Health and Wellness Center,*  
5 *Inc.* (2013) 56 Cal. 4th 729, the California Supreme Court held that  
6 “[n]othing in the CUA or the MMP expressly or impliedly limits the  
7 inherent authority of a local jurisdiction, by its own ordinances, to regulate  
8 the use of its land...” Additionally, in *Maral v. City of Live Oak* (2013) 221  
9 Cal.App.4<sup>th</sup> 975, the Court of Appeal held that “there is no right – and  
10 certainly no constitutional right – to cultivate medical marijuana...” The  
11 Court in *Maral* affirmed the ability of a local governmental entity to  
12 prohibit the cultivation of marijuana under its land use authority.

13 e. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies  
14 marijuana as a Schedule I Drug, which is defined as a drug or other  
15 substance that has a high potential for abuse, that has no currently accepted  
16 medical use in treatment in the United States, and that has not been  
17 accepted as safe for use under medical supervision. The Federal Controlled  
18 Substances Act makes it unlawful, under federal law, for any person to  
19 cultivate, manufacture, distribute or dispense, or possess with intent to  
20 manufacture, distribute or dispense, marijuana. The Federal Controlled  
21 Substances Act contains no exemption for the cultivation, manufacture,  
22 distribution, dispensation, or possession of marijuana for medical purposes.

23 f. Marijuana cultivation in the unincorporated area of Riverside County can  
24 adversely affect the health, safety, and well-being of County residents.  
25 Countywide prohibition of marijuana cultivation is proper and necessary to  
26 avoid the risks of criminal activity, degradation of the natural environment,  
27 malodorous smells, and indoor electrical fire hazards that may result from  
28 unregulated marijuana cultivation, and that are especially significant if the

1 amount of marijuana cultivated on a single premises is not regulated and  
2 substantial amounts of marijuana are thereby allowed to be concentrated in  
3 one place.

4 g. Marijuana cultivation at locations or premises within one thousand feet of  
5 schools, parks, and community centers creates unique risks that the  
6 marijuana plants may be observed by minors, and therefore be especially  
7 vulnerable to theft or recreational consumption by minors. Further, the  
8 potential for criminal activities associated with marijuana cultivation in  
9 such locations poses heightened risks that minors will be involved or  
10 endangered. Therefore, any amount of marijuana cultivation in such  
11 locations or premises is especially hazardous to public safety and welfare,  
12 and to the protection of children and the person(s) cultivating the marijuana  
13 plants.

14 h. As recognized by the Attorney General's August 2008 Guidelines for the  
15 Security and Non-Diversion of Marijuana Grown for Medical Use,  
16 marijuana cultivation or other concentration of marijuana in any location or  
17 premises without adequate security increases the risk that surrounding  
18 homes or businesses may be negatively impacted by nuisance activity such  
19 as loitering or crime.

20 i. The limited immunity from specified state marijuana laws provided by the  
21 Compassionate Use Act and Medical Marijuana Program does not confer a  
22 land use right or the right to create or maintain a public nuisance.

23 j. The County is committed to making efficient and rational use of its limited  
24 investigative and prosecutorial resources. There shall be a limited  
25 exemption from enforcement for violations of this ordinance by primary  
26 caregivers and qualified patients for small amounts of marijuana cultivation  
27 for their own medical use in zone classifications identified section 3.4 of  
28 Ordinance No. 348 when all of the conditions and standards in section 12 of

1 this ordinance are met.

2 Section 2. AUTHORITY. This ordinance is adopted pursuant to the authority granted  
3 by Article XI, section 7 of the California Constitution, Health and Safety Code section 11362.83, and  
4 Government Code sections 25845 and 53069.4.

5 Section 3. DEFINITIONS. As used in this ordinance, the following terms shall have  
6 the following meanings:

- 7 a. Abatement Costs. Any costs or expenses, including County staff time  
8 reasonably related to the abatement of conditions which violate this  
9 ordinance, and shall include, but not be limited to, enforcement,  
10 investigation, summaries, reports, notices, telephonic contact,  
11 correspondence, mailing expense, title search costs, administrative costs  
12 including scheduling and participation at hearings and meetings, Hearing  
13 Officer costs, expenses incurred by the County, court costs, civil or  
14 administrative penalties, collection, reasonable attorneys' fees, and other  
15 costs associated with the removal, abatement or correction of a violation.
- 16 b. Child Care Center. Any licensed child care center, daycare center, child  
17 care home, or any preschool.
- 18 c. Church. A structure or leased portion of a structure, which is used primarily  
19 for religious worship and related religious activities.
- 20 d. Community Center. Any facility open to the public at which classes,  
21 social activities, recreational activities, educational activities, support and  
22 public information are offered for all residents of the community.
- 23 e. Enforcement Officer. The Sheriff, the Transportation and Land  
24 Management Agency Director, Building Official, Code Enforcement  
25 Official, County Counsel, Environmental Health Department Director,  
26 Public Health Officer, Agricultural Commissioner, Fire Chief, Clerk of the  
27 Board of Supervisors, and their designees.
- 28 f. Family. One or more non-transient, related or unrelated persons living

1 together as a single, nonprofit housekeeping unit.

2 g. Marijuana Cultivation. The planting, growing, harvesting, drying,  
3 processing, or storage of one or more marijuana plants or any part thereof in  
4 any location, indoor or outdoor, including from within a fully enclosed and  
5 secure building.

6 h. Marijuana plant. Any mature or immature marijuana plant, or any  
7 marijuana seedling.

8 i. Minor. A person under eighteen (18) years of age.

9 j. Multiple-Family Dwelling. A building or portion thereof used to house two  
10 or more families, including domestic employees of each such family, living  
11 independently of each other, and each having their own kitchen.

12 k. One-Family Dwelling. A building or detached structure, including a  
13 mobilehome or manufactured home, containing one kitchen and used to  
14 house not more than one family, including domestic employees.

15 l. Park. A public playground, public recreation center or area, and other  
16 public areas, created, established, designated, maintained, provided or set  
17 aside by the County, any city, or any other public entity or agency, for the  
18 purposes of public rest, play, recreation, enjoyment or assembly, and all  
19 buildings and structures located thereon or therein.

20 m. Premises. A single parcel of property. Where contiguous parcels are under  
21 common ownership or control, such contiguous parcels shall be counted as  
22 a single “premises” for purposes of this ordinance.

23 n. Primary Caregiver. Shall have the meaning set forth in Health and Safety  
24 Code sections 11362.5 and 11362.7 et seq.

25 o. Qualified Patient. Shall have the meaning set forth in Health and Safety  
26 Code sections 11362.5 and 11362.7 et seq.

27 p. Responsible Party. (1) Each person committing the violation or causing a  
28 condition on a premises located within the jurisdiction of the County of

1 Riverside which violates this ordinance; (2) each person who has an  
2 ownership interest in that premises; or (3) each person who, although not an  
3 owner, nevertheless occupies or has a legal right or a legal obligation to  
4 exercise possession or control over that premises. In the event the person  
5 who commits the violation or causes the violating condition is a minor, then  
6 the minor's parents or legal guardian shall be deemed the responsible party.  
7 In the event the violation or violating condition is most reasonably  
8 attributable to a business, then that business, to the extent it is a legal entity  
9 such that it can sue and be sued in its own name, and each person who is an  
10 owner of that business shall be deemed responsible parties.

11 q. School. An institution of learning for minors, whether public or private,  
12 offering a regular course of instruction required by the California Education  
13 Code. This definition includes a nursery school, kindergarten, elementary  
14 school, middle or junior high school, senior high school, or any special  
15 institution of education, but it does not include a home school, vocational or  
16 professional institution of higher education, including a community or  
17 junior college, college, or university.

18 r. Youth-oriented Facility. Any facility that caters to or provides services  
19 primarily intended for minors, or the individuals who regularly patronize,  
20 congregate or assemble at the establishment are predominantly minors.

21 Section 4. PROHIBITIONS ON MARIJUANA CULTIVATION. NUISANCE  
22 DECLARED. Marijuana cultivation, either indoors or outdoors, fixed or mobile, upon any premises  
23 within all unincorporated areas of Riverside County is prohibited and hereby declared to be unlawful and  
24 a public nuisance that may be abated in accordance with this ordinance. The foregoing prohibition shall  
25 be imposed regardless of the number of qualified patients or primary caregivers residing at the premises  
26 or participating directly or indirectly in the cultivation. Further, this prohibition shall be imposed  
27 notwithstanding any assertion that the person(s) cultivating marijuana are the primary caregiver(s) for  
28 qualified patients or that such person(s) are collectively or cooperatively cultivating marijuana.

1                    Section 5.        NOTICE TO ABATE UNLAWFUL MARIJUANA CULTIVATION.

2 Whenever the enforcement officer determines that a public nuisance as described in this ordinance exists  
3 on any premises within the unincorporated area of Riverside County, he or she is authorized to notify the  
4 owner of the premises and any other responsible party, through issuance of a “Notice to Abate Unlawful  
5 Marijuana Cultivation.”

6                    Section 6.        CONTENTS OF NOTICE.    The Notice to Abate Unlawful Marijuana

7 Cultivation set forth in section 5 of this ordinance shall be in writing and shall:

- 8                    a.        Identify the owner(s) of the premises upon which the nuisance exists, as  
9                    named in the last County Equalized Assessment Roll, and identify any  
10                   other responsible party, if other than the owner(s), and if known or  
11                   reasonably identifiable.
- 12                   b.        Describe the location of such premises by its commonly used street address,  
13                   giving the name or number of the street, road or highway and the number, if  
14                   any.
- 15                   c.        Identify such premises by reference to the assessor’s parcel number.
- 16                   d.        Contain a statement that unlawful marijuana cultivation exists on the  
17                   premises and that it has been determined by the enforcement officer to be a  
18                   public nuisance described in this ordinance.
- 19                   e.        Describe the unlawful marijuana cultivation that exists and the actions  
20                   required to abate it.
- 21                   f.        Contain a statement that the owner or responsible party is required to  
22                   abate the unlawful marijuana cultivation within ten (10) calendar days  
23                   after the date that said notice was served.
- 24                   g.        Contain a statement that the owner or responsible party may, within ten  
25                   (10) calendar days after the date that said Notice to Abate Unlawful  
26                   Marijuana Cultivation was served, make a request in writing to the  
27                   County Department that issued the notice for a hearing to appeal the  
28

1 determination of the enforcement officer that the conditions existing  
2 constitute a public nuisance, or to show other cause why those conditions  
3 should not be abated in accordance with the provisions of this ordinance.

4 h. Contain a statement that, unless the owner or responsible party abates the  
5 unlawful marijuana cultivation within the time prescribed in the Notice to  
6 Abate Unlawful Marijuana Cultivation, the enforcement officer shall abate  
7 the nuisance. It shall also state that the abatement costs may result in the  
8 imposition of a lien and special tax assessment against the premises for  
9 abatement costs related to enforcement of the this ordinance and abatement  
10 of the violative conditions.

11 i. The failure of the Notice to Abate Unlawful Marijuana Cultivation to set  
12 forth all required contents shall not affect the validity of the proceedings.

13 Section 7. SERVICE OF NOTICE. Unless otherwise specifically provided for in any  
14 other section of this ordinance, notices shall be issued in the following manner:

15 a. Notices required pursuant to this ordinance may be served in any of the  
16 following methods:

- 17 1. Personal service; or
- 18 2. By posting a copy of the notice in a visible place on the premises  
19 and mailing a copy to the premises owner as such person's name and  
20 address appears on the last County Equalized Assessment Roll. If notice  
21 is mailed to a responsible party other than the premises owner then the  
22 notice may be mailed to the last known address. If the address of any  
23 such person is unknown, that fact shall be stated in the copy so mailed  
24 and it shall be addressed to the person at the county seat. Service shall  
25 be deemed complete five (5) calendar days after the date of deposit in  
26 the mail or five (5) calendar days after the date of posting, whichever is  
27 later.

- 1                   b.     The failure of any premises owner or any other responsible party to  
2                   receive such notice shall not affect the validity of the abatement  
3                   proceedings.

4                   Section 8.     APPEAL HEARING BY COUNTY HEARING OFFICER.

- 5                   a.     Any person upon whom a Notice to Abate Unlawful Marijuana  
6                   Cultivation has been served may appeal the determination of the  
7                   enforcement officer that the conditions set forth in the notice constitute a  
8                   public nuisance, or may show cause why those conditions should not be  
9                   abated in accordance with the provisions of this ordinance.
- 10                  b.     Any such appeal shall be commenced by filing a written request for a  
11                  hearing with the County Department that issued the Notice to Abate  
12                  Unlawful Marijuana Cultivation within ten (10) calendar days after the  
13                  date that said Notice was served. The written request shall include a  
14                  statement of all facts supporting the appeal. The time requirement for  
15                  filing such a written request shall be deemed jurisdictional and may not  
16                  be waived. In the absence of a timely filed written request that complies  
17                  fully with the requirements of this section, the findings of the  
18                  enforcement officer contained in the Notice to Abate Unlawful Marijuana  
19                  Cultivation shall become final and conclusive on the eleventh day  
20                  following service of the notice.
- 21                  c.     Upon timely receipt of a written request for hearing which complies with  
22                  the requirements of this section, a hearing shall be set for a date not less  
23                  than ten (10) calendar days, nor more than thirty (30) calendar days, from  
24                  the date the request was filed. Written notice of the hearing shall sent to  
25                  the requesting party, to any other parties upon whom the Notice to Abate  
26                  Unlawful Marijuana Cultivation was served, and to the enforcement  
27                  officer.



- 1 d. The Board of Supervisors delegates its authority to conduct the hearing to  
2 the County Hearing Officer appointed by the Board of Supervisors  
3 pursuant to Ordinance No. 643 and Government Code section 27720.
- 4 e. The County Hearing Officer shall have full authority and duty to preside  
5 over the hearing in the manner set forth in Ordinance No. 643.
- 6 f. At the time fixed in the notice of hearing, the County Hearing Officer shall  
7 receive evidence from the enforcement officer and the owner of the  
8 premises, any other responsible party, or their representatives and any other  
9 concerned persons who may desire to present oral or documentary evidence  
10 regarding the conditions of the premises or other relevant matter, if such  
11 persons are present at the hearing. In conducting the hearing, the County  
12 Hearing Officer shall not be limited by the technical rules of evidence.  
13 Failure of the owner or responsible party to appear shall not affect the  
14 validity of the proceedings or order issued thereon.
- 15 g. Upon conclusion of the hearing, the County Hearing Officer shall make his  
16 decision and in the event it so concludes, may declare the conditions on the  
17 premises to be in violation of this ordinance and to constitute a public  
18 nuisance. The County Hearing Officer may direct the owner or responsible  
19 party to abate the unlawful marijuana cultivation within ten (10) calendar  
20 days after mailing and posting of the County Hearing Officer's decision.  
21 The County Hearing Officer's decision shall include notice that if the  
22 unlawful marijuana cultivation is not abated as directed and within ten (10)  
23 calendar days, the enforcement officer may abate the unlawful marijuana  
24 cultivation and the abatement costs shall be a lien and an assessment against  
25 the premises. Such decision shall be mailed to, or personally served upon,  
26 the party requesting the hearing, any other parties upon whom the Notice to  
27 Abate Unlawful Marijuana Cultivation was served, and the enforcement  
28 officer.

1 h. The County Hearing Officer may continue the administrative hearing from  
2 time to time.

3 i. At the conclusion of the hearing, the County Hearing Officer shall submit  
4 his decision and the record to the Clerk of the Board.

5 j. The decision of the County Hearing Officer shall be final and conclusive.

6 Section 9. ABATEMENT BY OWNER OR RESPONSIBLE PARTY. Any owner or  
7 responsible party may abate the unlawful marijuana cultivation or cause it to be abated at any time prior to  
8 commencement of abatement by, or at the direction of, the enforcement officer.

9 Section 10. SUMMARY ABATEMENT. Notwithstanding any other provision of this  
10 ordinance, when any unlawful marijuana cultivation constitutes an immediate threat to public health or  
11 safety, and when the procedures set forth in sections 5 through 8 of this ordinance will not result in  
12 abatement of that nuisance within a short enough time period to avoid that threat, the enforcement officer  
13 may direct any officer or employee of the County to summarily abate the nuisance by removing and  
14 destroying the marijuana plants. The enforcement officer shall make reasonable efforts to notify the  
15 owner of the premises and any other responsible party, but the formal notice and hearing procedures set  
16 forth in this ordinance shall not apply. The County may nevertheless recover its abatement costs for  
17 abating that nuisance in the manner set forth in this ordinance.

18 Section 11. ENFORCEMENT. Whenever the enforcement officer becomes aware that  
19 an owner of the premises or any other responsible party has failed to abate any unlawful marijuana  
20 cultivation within ten (10) calendar days of the date of service of the Notice to Abate Unlawful Marijuana  
21 Cultivation, unless timely appealed, or of the date of the County Hearing Officer's decision requiring such  
22 abatement, the enforcement officer may take one or more of the following actions:

23 a. Enter upon the premises and abate the nuisance by County personnel, or by  
24 private contractor under the direction of the enforcement officer. The  
25 enforcement officer may apply to a court of competent jurisdiction for a  
26 warrant authorizing entry upon the premises for purposes of undertaking the  
27 nuisance abatement work by removing and destroying the marijuana plants,  
28 including any fixtures and other moveable property and equipment used for

1 marijuana cultivation, if necessary.

- 2 b. Request that the County Counsel commence a civil action to redress, enjoin,  
3 and abate the public nuisance.

4 Section 12. LIMITED EXEMPTION FROM ENFORCEMENT.

- 5 a. The County is committed to making efficient and rational use of its limited  
6 investigative and prosecutorial resources. There shall be a limited  
7 exemption from enforcement for violations of this ordinance by primary  
8 caregivers and qualified patients for small amounts of marijuana cultivation  
9 for their own medical use in zone classifications identified section 3.4 of  
10 Ordinance No. 348 when all of the following conditions and standards are  
11 complied with:

- 12 1. The premises shall contain a legally permitted one-family dwelling.
- 13 2. Cultivation of no more than twelve (12) marijuana plants per  
14 qualified patient. In the event a qualified patient has a primary  
15 caregiver cultivating marijuana plants for the qualified patient, only  
16 one primary caregiver may cultivate no more than twelve (12)  
17 marijuana plants for that qualified patient at any one time. In no  
18 circumstances shall a qualified patient have multiple primary  
19 caregivers cultivating marijuana plants for the qualified patient at  
20 the same time.
- 21 3. Two (2) qualified patient limit to aggregate marijuana plant count  
22 for a maximum total of twenty-four (24) marijuana plants per  
23 premises.
- 24 4. At least one qualified patient or one primary caregiver must live on  
25 the premises.
- 26 5. All marijuana plants must be reasonably secured to prevent access  
27 by minors or theft, to a standard satisfactory to the enforcement  
28 officer.

- 1                               6.     All marijuana cultivation outside of any building must be fully  
2 enclosed by an opaque fence at least six feet in height. The fence  
3 must be adequately secure to prevent unauthorized entry. Bushes,  
4 hedgerows, plastic sheeting, tarps, or cloth material shall not  
5 constitute an adequate fence under this subsection. Premises larger  
6 than five (5) acres are exempt from this fencing provision so long as  
7 all other standards and conditions of subsection a. of this section are  
8 complied with and any barriers used are otherwise consistent with  
9 Ordinance No. 457 and Ordinance No. 348.
- 10                            7.     Each building or outdoor area in which the marijuana plants are  
11 cultivated shall be set back at least ten (10) feet from all boundaries  
12 of the premises. Such setback distance shall be measured in a  
13 straight line from the building in which the marijuana plants are  
14 cultivated, or, if the marijuana plants are cultivated in an outdoor  
15 area, from the fence required by subsection 6. to the boundary line  
16 of the premises.
- 17                            8.     The designated marijuana cultivation area must not be visible from  
18 any public right-of-way.
- 19                            9.     If the person cultivating marijuana plants on any premises is not the  
20 owner of the premises, such person shall submit a letter from the  
21 owner(s) consenting to the marijuana cultivation on the parcel. This  
22 letter shall be examined by the enforcement officer, and shall then  
23 be returned to the submitter. The County shall prescribe forms for  
24 such letters.
- 25                            10.  Parolees or probationers shall not live on the premises unless the  
26 parolees or probationers have received confirmation from the court  
27 that he is allowed to use medical marijuana while on parole or  
28 probation pursuant to Health & Safety Code section 11362.795

1 which shall be subject to verification by the enforcement officer.

2 11. Qualified patients for whom the marijuana plants are being  
3 cultivated shall have valid Medical Marijuana Identification Cards  
4 issued by the Riverside County Department of Public Health. Any  
5 primary caregiver cultivating marijuana plants for a qualified patient  
6 shall have a copy of the qualified patient's valid Medical Marijuana  
7 Identification Card issued by the Riverside County Department of  
8 Public Health which shall be kept on the premises.

9 12. The address for the premises must be posted and plainly visible from  
10 the public right-of-way.

11 13. The marijuana cultivation shall not be within a multi-dwelling  
12 building.

13 14. The marijuana cultivation shall not be upon any premises located  
14 within one thousand (1,000) feet of any school, community center,  
15 or park.

16 15. The marijuana cultivation shall not be upon any premises containing  
17 a child care center, church, or youth-oriented facility.

18 b. Any marijuana cultivation that does not comply with all of the standards  
19 and conditions in subsection a. of this section is subject to nuisance  
20 abatement enforcement and administrative civil penalties as set forth in this  
21 ordinance.

22 Section 13. RECOVERY OF ABATEMENT COSTS AND ATTORNEYS' FEES.

23 a. In any enforcement action brought pursuant to this ordinance, whether by  
24 administrative proceedings, judicial proceedings, or summary abatement,  
25 each person who causes, permits, suffers, or maintains the unlawful  
26 marijuana cultivation to exist shall be liable for all abatement costs incurred  
27 by the County, and any and all costs incurred to undertake, or to cause or  
28 compel any responsible party to undertake, any abatement action in

1 compliance with the requirements of this ordinance, whether those costs are  
2 incurred prior to, during, or following enactment of this ordinance.

- 3 b. In any action by the enforcement officer to abate unlawful marijuana  
4 cultivation under this ordinance, whether by administrative proceedings,  
5 judicial proceedings, or summary abatement, the prevailing party shall be  
6 entitled to a recovery of the reasonable attorneys' fees incurred. Recovery  
7 of attorneys' fees under this subdivision shall be limited to those actions or  
8 proceedings in which the County elects, at the initiation of that action or  
9 proceeding, to seek recovery of its own attorneys' fees. In no action,  
10 administrative proceeding, or special proceeding shall an award of  
11 attorneys' fees to a prevailing party exceed the amount of reasonable  
12 attorneys' fees incurred by the County in the action or proceeding.

13 Section 14. NOTICE OF ABATEMENT COSTS. At the conclusion of the abatement, the  
14 enforcement officer shall issue a bill setting forth the abatement costs to the owner of the premises and  
15 any other responsible party. The bill shall demand payment to the County of the total abatement costs  
16 within fifteen (15) calendar days of its mailing.

17 Section 15. SPECIAL ASSESSMENT AND LIEN.

- 18 a. If the owner fails to pay the abatement costs upon demand by the County,  
19 the Board of Supervisors may order the abatement costs to be specially  
20 assessed against the premises under Government Code section 25845. The  
21 assessment may be collected at the same time and in the same manner as  
22 ordinary county taxes are collected, and shall be subject to the same  
23 penalties and the same procedure and sale in case of delinquency as are  
24 provided for ordinary county taxes. All laws applicable to the levy,  
25 collection, and enforcement of county taxes are applicable to the special  
26 assessment.
- 27 b. If the Board of Supervisors specially assesses the abatement costs against  
28 the premises, the Board of Supervisors also may cause a Notice of

1 Abatement Lien to be recorded. The Notice of Abatement Lien shall, at a  
2 minimum, identify the record owner or possessor of the premises, set forth  
3 the last known address of the record owner or possessor of the premises, set  
4 forth the date upon which abatement of the nuisance was ordered by the  
5 County Hearing Officer, the date the abatement was complete, include a  
6 description of the premises subject to the lien, and the amount of the  
7 abatement cost.

8 Section 16. ADMINISTRATIVE CIVIL PENALTIES.

- 9 a. In addition to any other remedy prescribed in this ordinance, any  
10 nuisance as described in this ordinance may be subject to an  
11 administrative civil penalty of up to one thousand dollars (\$1000) per  
12 day. The administrative civil penalty may be imposed via the  
13 administrative process set forth in this section, as provided in  
14 Government Code section 53069.4, or may be imposed by the court if the  
15 violation requires court enforcement without an administrative process.
- 16 b. Acts, omissions, or conditions in violation of this ordinance that continue,  
17 exist, or occur on more than one day constitute separate violations on  
18 each day. Violations continuing, existing, or occurring on the service  
19 date, the effective date, and each day between the service date and the  
20 effective date are separate violations.
- 21 c. In the case of a continuing violation, if the violation does not create an  
22 immediate danger to health or safety, the enforcement officer or the court  
23 shall provide for a reasonable period of time, not to exceed ten (10) calendar  
24 days, for the person responsible for the violation to correct or otherwise  
25 remedy the violation prior to the imposition of the administrative civil  
26 penalty.
- 27 d. In determining the amount of the administrative civil penalty, the  
28 enforcement officer, or the court if the violation requires court enforcement

1 without an administrative process, shall take into consideration the nature,  
2 circumstances, extent, and gravity of the violation or violations, any prior  
3 history of violations, the degree of culpability, economic savings, if any  
4 resulting from the violation, and any other matters justice may require.

- 5 e. The enforcement officer may commence the administrative civil penalty  
6 process by issuance of a notice of violation and proposed administrative  
7 civil penalty, which shall state the amount of the proposed administrative  
8 civil penalty and the reasons therefore. The notice of violation and  
9 proposed administrative civil penalty shall inform the recipient of his right  
10 to request an appeal hearing in accordance with this section. The notice  
11 shall state that if such a hearing is not requested within ten (10) days of  
12 issuance of the notice of violation and issuance of the proposed  
13 administrative civil penalty, the proposed penalty shall become final and the  
14 recipient of thereof shall immediately make payment of the administrative  
15 civil penalty to the County. The notice of violation and proposed  
16 administrative civil penalty shall also state that if the administrative civil  
17 penalty is not timely paid or appealed then additional costs shall be assessed  
18 by the enforcement officer to recover administrative costs, including but not  
19 limited to costs of obtaining a title report, recording fees, noticing,  
20 scheduling and participating in further hearings, collection activities or  
21 other costs incurred to recover the administrative civil penalties. The notice  
22 of violation and proposed administrative civil penalty may be combined  
23 with a Notice to Abate Unlawful Marijuana Cultivation issued pursuant to  
24 Section 5. The notice of violation and proposed administrative civil penalty  
25 shall be served by mail addressed to all of the following: (i) the owner of  
26 the premises on which the violation exists, as named on the last County  
27 Equalized Assessment Roll, or as otherwise known to the enforcement  
28 officer; (ii) anyone other responsible party, if other than the owner(s), and if



1 known or reasonably identifiable; and (iii) any other person known to the  
2 enforcement officer who has caused, permitted, maintained, conducted, or  
3 otherwise suffered or allowed the violation to exist. The failure to serve  
4 any person described in this subsection shall not affect the validity of  
5 service or the validity of any penalties imposed upon any other person.

6 Section 17. APPEAL OF ADMINISTRATIVE CIVIL PENALTIES.

7 a. Notice of Appeal. The recipient of an administrative civil penalty may  
8 appeal its validity by filing a written Notice of Appeal with the County  
9 Department that issued the administrative civil penalty. The written Notice  
10 of Appeal must be filed within ten (10) calendar days of service of the  
11 administrative civil penalty. The Notice of Appeal shall be accompanied by  
12 either an advance deposit of the administrative civil penalty imposed or a  
13 Request for Advance Deposit Hardship Waiver as set forth below. Failure  
14 to properly file a written Notice of Appeal within this time period shall  
15 constitute a waiver of the right to appeal the administrative civil penalty.  
16 The Notice of Appeal shall be submitted on a form provided by the County  
17 Department that issued the administrative civil penalty and shall contain the  
18 following information:

- 19 1. A brief statement setting forth the appellant's interest in the  
20 proceedings;
- 21 2. A brief statement of the material facts which the appellant claims  
22 support a contention that no violation exists and that no  
23 administrative civil penalty should be imposed or that an  
24 administrative civil penalty of a different amount is warranted;
- 25 3. An address at which the appellant agrees that notice of any  
26 additional proceeding or an order relating to the imposition of the  
27 administrative civil penalty may be received by mail; and
- 28 4. The Notice of Appeal must be signed by the appellant under penalty

1 of perjury.

2 b. Advance Deposit Hardship Waiver.

- 3 1. Any person filing a Notice of Appeal to contest an administrative  
4 civil penalty and who is financially unable to make the advance  
5 deposit of the penalty as required, may submit a Request For  
6 Advance Deposit Hardship Waiver with the Notice of Appeal.
- 7 2. The Request For Advance Deposit Hardship Waiver shall be filed  
8 with the County Department that issued the administrative civil  
9 penalty on a form provided by the same County Department. The  
10 request shall be documented by a sworn affidavit, together with any  
11 supporting documents or materials, demonstrating to the satisfaction  
12 of the enforcement officer that the person's actual financial inability  
13 to deposit the full amount of the administrative civil penalty in  
14 advance of the hearing.
- 15 3. The requirement of depositing the full amount of the administrative  
16 civil penalty shall be stayed for ten (10) calendar days pending a  
17 determination by the enforcement officer of the approval or denial of  
18 the Request For Advance Deposit Hardship Waiver.
- 19 4. The enforcement officer shall issue a written determination stating  
20 the approval or listing the reasons for the denial of the Request For  
21 Advance Deposit Hardship Waiver. The written determination shall  
22 be mailed to the appellant at the address provided in the Request.
- 23 5. If the enforcement officer denies a Request For Advance Deposit  
24 Hardship Waiver, the appellant shall remit the deposit to the County  
25 within fifteen (15) calendar days of the date of mailing notice of the  
26 denial.
- 27 6. The written determination of the enforcement officer shall be final.

28 c. Hearing on Appeal of Administrative Civil Penalty. Upon receipt of a

1 timely filed Notice of Appeal of an Administrative Civil Penalty, an appeal  
2 hearing to consider the issuance of the administrative civil penalty shall be  
3 held before the County Hearing Officer, appointed by the Board of  
4 Supervisors pursuant to Ordinance No. 643 and Government Code section  
5 27720. The appeal hearing shall be conducted pursuant to the provisions set  
6 forth in section 8 of this ordinance.

7 d. County Hearing Officer's Decision. The County Hearing Officer shall issue  
8 a written decision following the appeal hearing, which shall be issued to the  
9 appellant at the appellant's address set forth in the Notice of Appeal. If the  
10 administrative civil penalty is determined to have been valid at the time of  
11 its issuance, the County Hearing Officer shall set the penalty amount  
12 pursuant to section 16 of this ordinance, and order said penalties to be paid  
13 within fifteen (15) calendar days of issuance of the County Hearing  
14 Officer's decision. The County Hearing Officer is authorized to order the  
15 penalties to be placed as a recorded lien against the premises subject to the  
16 administrative civil penalty and authorize the penalties to be placed as a  
17 Special Assessment on the County Tax Assessment Roll to be paid with  
18 County taxes, unless paid sooner. The County Hearing Officer's decision  
19 shall contain instructions for obtaining judicial review of the decision as set  
20 forth below.

21 e. Judicial Review of Administrative Hearing Officer's Decision On  
22 Administrative Civil Penalty.

23 1. Notice of Appeal of the Administrative Hearing Officer's Decision.  
24 Within twenty (20) calendar days of the date of issuance of the final  
25 decision, the appellant may contest an Administrative Hearing  
26 Officer's decision by filing an appeal in the Riverside County  
27 Superior Court. The fee for filing the appeal is specified in  
28 Government Code section 70615 (currently \$25.00) and shall be

1 paid to the Clerk of the Court. The failure to file the written appeal  
2 and to pay the filing fee within this period shall constitute a waiver  
3 of the right to an appeal and the decision shall be deemed final and  
4 confirmed. A copy of the Notice of Appeal of the Administrative  
5 Hearing Officer's Decision filed in the Riverside County Superior  
6 Court shall be served in person or by first class mail upon the  
7 County Department that issued the administrative civil penalty by  
8 the appellant.

9 2. Conduct of Hearing. The conduct of the appeal hearing is a  
10 subordinate judicial duty and may be performed by traffic trial  
11 commissioners and other subordinate judicial officials at the  
12 direction of the Presiding Judge of the Riverside County Superior  
13 Court. The appeal shall be heard de novo, and the contents of the file  
14 of the County Department that issued the administrative civil  
15 penalty shall be received into evidence. A copy of the Notice of  
16 Violation, administrative civil penalty and Hearing Officer's  
17 Decision shall be admitted into evidence as prima facie evidence of  
18 the facts stated therein. The Court shall request that the County  
19 Department's file be forwarded to the Court, to be received within  
20 fifteen (15) calendar days of the request.

21 3. Judgment. The Court shall retain the fee for filing the appeal  
22 regardless of the outcome of the appeal. If the Court finds in favor  
23 of the appellant, the amount of the fee shall be reimbursed to the  
24 appellant by the County in accordance with the judgment of the  
25 Court. If the penalty has not been deposited and the decision of the  
26 Court is against the appellant, the County Department that issued the  
27 administrative civil penalty may proceed to collect the penalty  
28 pursuant to the abatement cost recovery procedures set forth in this

1 ordinance.

2 Section 18. COLLECTION OF ADMINISTRATIVE CIVIL PENALTIES WHEN NO  
3 APPEAL HEARING IS REQUESTED.

4 a. If the administrative civil penalty are not timely paid and no Notice of  
5 Appeal is filed by the date set forth on the administrative civil penalty then  
6 additional costs shall be assessed by the enforcement officer to recover  
7 administrative costs. These administrative costs include, but are not limited  
8 to costs of obtaining a title report, recording fees, noticing, scheduling and  
9 participating in further hearings, reasonable attorneys' fees, collection  
10 activities or other costs incurred to recover the administrative civil  
11 penalties.

12 b. A "Notice Of Delinquent Administrative Civil Penalties and Special Tax  
13 Assessment" shall be issued to the owner of the premises and other  
14 responsible party who received the administrative civil penalty in the same  
15 manner as set forth in section 16 of this ordinance. Said notice shall  
16 provide an opportunity to request a hearing regarding only the amount of  
17 penalties to be assessed as a special tax assessment. The request for hearing  
18 shall be submitted to the County Department issuing the administrative civil  
19 penalty within twenty (20) calendar days of issuance of the Notice of  
20 Delinquent Administrative Civil Penalties and Special Tax Assessment and  
21 shall include the proper form to be used to request a hearing. Any hearing  
22 set pursuant to this subsection shall be conducted by the County Hearing  
23 Officer. If a request for hearing is not timely or properly submitted, the  
24 right to a hearing concerning the amount of penalties assessed shall be  
25 considered waived.

26 Section 19. ENFORCEMENT BY CIVIL ACTION. As an alternative to the procedures set  
27 forth in sections 5 through 8, the County may abate a violation of this ordinance by the prosecution of a  
28 civil action through the Office of County Counsel, including an action for injunctive relief. The remedy of

1 injunctive relief may take the form of a court order, enforceable through civil contempt proceedings or  
2 receivership, prohibiting the maintenance of the violation of this ordinance or requiring compliance with  
3 other terms.

4 Section 20. OTHER NUISANCE. Nothing in this ordinance shall be construed as a  
5 limitation on the County's authority to abate any nuisance which may otherwise exist from the planting,  
6 growing, harvesting, drying, processing or storage of marijuana plants or any part thereof from any  
7 location, indoor or outdoor, including from within a fully enclosed and secure building.

8 Section 21. TREBLE DAMAGES. Upon a second or subsequent civil or criminal judgment  
9 for violation of this ordinance within a two-year period, a violator shall be liable to the County for treble  
10 the abatement costs, in accordance with Government Code section 25845.5.

11 Section 22. MISDEMEANOR PENALTY. Any person violating any provision of this  
12 ordinance shall be guilty of a misdemeanor.

13 Section 23. NON-EXCLUSIVE REMEDIES AND PENALTIES. All remedies and  
14 penalties for the abatement of public nuisances provided for in this ordinance shall be cumulative and not  
15 exclusive. Enforcement by use of any administrative, criminal or civil action, citation or administrative  
16 proceeding or abatement remedy does not preclude the use of additional citations or other remedies as  
17 authorized by other ordinance or law. Enforcement remedies may be employed concurrently or  
18 consecutively. Conviction and punishment of or enforcement against any person hereunder shall not  
19 relieve such person from the responsibility of correcting, removing or abating a violation, nor prevent the  
20 enforced correction, removal or abatement thereof. Each and every day, or any portion thereof, during  
21 which any violation of this ordinance is committed, continued, or permitted by such person, shall be  
22 deemed a separate and distinct offense.

23 Section 24. SEVERABILITY. If any provision, clause, sentence or paragraph of this  
24 ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity  
25 shall not affect the other provisions of this ordinance which can be given effect without the invalid  
26 provision or application, and to this end, the provisions of this ordinance are hereby declared to be  
27 severable.

28 ///

1                    Section 25.      EFFECTIVE DATE. This ordinance shall take effect thirty (30) calendar  
2 days after its adoption.

4                    BOARD OF SUPERVISORS OF THE COUNTY  
5                    OF RIVERSIDE, STATE OF CALIFORNIA

6                    By: \_\_\_\_\_

7                    Chairman

8                    ATTEST:

9                    CLERK OF THE BOARD


11                  By: \_\_\_\_\_

12                  Deputy

14                  (SEAL)

16                  APPROVED AS TO FORM

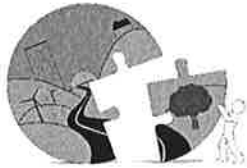
18                  May 6, 2015

20                  By: 

21                  TIFFANY N. NORTH

22                  Deputy County Counsel

23                  G:\Property\TNorth\RCO No 348\... Marijuana\RCO No 925 re marijuana cultivation Final.doc



RIVERSIDE COUNTY  
PLANNING DEPARTMENT

**PLANNING COMMISSION  
MINUTE ORDER  
APRIL 15, 2015**

**I. AGENDA ITEM 4.6  
RIVERSIDE COUNTY ORDINANCE NO. 925 AND RIVERSIDE COUNTY ORDINANCE NO.  
348.4802**

**II. PROJECT DESCRIPTION:**  
Marijuana Cultivation Ordinance.

**III. MEETING SUMMARY:**  
The following staff presented the subject proposal:  
Presented by: Tiffany North, Deputy County Counsel

- Barry Sheinbaum, Nuevo, did not speak, but is in favor of the ordinance,
- Douglas Lanphere, Interested party, spoke in a neutral position,
- Alex Franco, Interested Party, spoke in opposition.

**IV. CONTROVERSIAL ISSUES:**  
None.

**V. PLANNING COMMISSION ACTION:**  
Public Comments: Closed  
Motion by Commissioner Leach, 2<sup>nd</sup> by Commissioner Hake  
A vote of 5-0

*RECOMMENDS THAT THE BOARD OF SUPERVISORS TAKE THE FOLLOWING ACTIONS:*

**FIND THE ORDINANCE EXEMP FROM CEQA;** and,

**ADOPT ORDINANCE NO. 348-4802.**

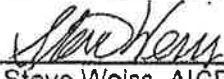
**CD** The entire discussion of this agenda item can be found on CD. For a copy of the CD, please contact Mary Stark, TLMA Commission Secretary, at (951) 955-7436 or email at [mcstark@rctlma.org](mailto:mcstark@rctlma.org).



4 - 6

Agenda Item No.:  
Area Plan: Countywide  
Zoning: All Zoning Areas and Zones  
Supervisorial District: All Districts  
Planning Commission:  
April 15, 2015

Ordinance No. 348.4802  
CEQA Exempt  
Applicant: County of Riverside

  
Steve Weiss, AICP  
Planning Director

## COUNTY OF RIVERSIDE PLANNING DEPARTMENT STAFF REPORT

### PROJECT DESCRIPTION AND LOCATION:

#### **Ordinance No. 348.4802**

Pursuant to the Board of Supervisors' direction, Ordinance No. 348.4802 adds new provisions to Ordinance No. 348 (Section 3.4) clarifying that cultivation of marijuana is prohibited in all zone classifications throughout the unincorporated area of the County and that no permit of any type shall be issued for marijuana cultivation. Ordinance No. 348.4802 further provides that there shall be a limited exemption from enforcement for violations of the ordinance for marijuana cultivation in the following zone classifications in conjunction with a one-family dwelling if such marijuana cultivation complies with the conditions and standards set forth in a separate nuisance ordinance, Ordinance No. 925: Light Agriculture (A-1), Heavy Agriculture (A-2), Light Agriculture with Poultry (A-P), Citrus Vineyard (CV), Natural Assets (N-A), One-Family Dwellings (R-1), One-Family Dwellings Mountain Resort (R-1A), Multiple-Family Dwellings (R-2), Limited Multiple-Family Dwellings (R-2A), General Residential (R-3), Village Tourist Residential (R-3A), Planned Residential (R-4), Residential Incentive (R-6), Residential Agricultural (R-A), Regulated Development (R-D), Rural Residential (R-R), Mobile Home Subdivisions and Mobile Home Parks (R-T), Mobile Home Subdivision Rural (R-T-R), Controlled Development Areas (W-2), Controlled Development Area with Mobile Homes (W-2-M), Wine Country – Winery (WC-W), Wine Country – Winery Existing (WC-WE), Wine Country – Equestrian (WC-E), Wine Country – Residential (WC-R), and Specific Plan (SP) when the underlying zone classification for that particular SP is one of the other zone classifications identified above.

Ordinance No. 348.4802 also amends Section 3.3 of Ordinance No. 348 to state that any use that is illegal under State or Federal law is not allowed under Ordinance No. 348. Additionally, Ordinance No. 348.4802 adds the previously adopted Wine Country zoning classifications to the list of zones set forth in Section 3.1 of Ordinance No. 348.

### BACKGROUND:

On October 17, 2006 (agenda item 3.54), the Board of Supervisors adopted Ordinance No. 348.4423 making it clear that marijuana dispensaries are prohibited throughout the unincorporated area of the County. That language was previously in Section 3.3 of Ordinance No. 348 but is being moved to Section 3.4 under Ordinance No. 348.4802. Since 2006, the California Supreme Court has held that California's medical marijuana laws set forth in the Compassionate Use Act (CUA) and the Medical Marijuana Program Act (MMPA) do *not* preempt "the authority of California cities and counties, under their traditional land use and police powers, to allow restrict, limit, or entirely exclude facilities that distribute medical marijuana, and to enforce such policies by nuisance actions." *City of Riverside v. Inland Empire Patients Health & Wellness Center*, 56 Cal.4th 729, 762-63 (May 2013).

The courts have applied similar reasoning in upholding various local government regulations or prohibitions of marijuana cultivation. For example, the Fifth District appellate court found that the CUA and MMPA do not require Tulare County to define growing marijuana as an acceptable agricultural use of land. *County of Tulare v. Nunes*, 215 Cal.App.4th 1188 (2013). Also, the Third District appellate court found the MMPA and the "Drug Den" abatement law, *Health & Safety Code §11570* did not preempt Tehama County's ordinance declaring that any cultivation of marijuana not in accordance with its provisions was a nuisance that could be abated. *Browne v. County of Tehama*, 213 Cal.App.4th 704 (Feb. 2013). Most recently, in *Maral v. City of Live Oak*, 221 Cal.App.4th 975 (Nov. 2013)(review denied March 26, 2014), an opinion issued after the *Inland Empire* decision, the Third District appellate court expanded its earlier opinion addressing cultivation and held:

The reasoning of *Inland Empire* applies to the cultivation of medical marijuana as well as its distribution, as both are addressed in the CUA and MMP. Accordingly, **we conclude the CUA and MMP do not preempt a city's police power to prohibit the cultivation of all marijuana within that city.** *Maral, id* at 976. [Emphasis added.]

Though the *Inland Empire* and *Maral* decisions both dealt with city ordinances, the decisions are also applicable to counties.

On November 25, 2014, the Board of Supervisors approved agenda item 3-1 directing staff to prepare an amendment to Ordinance No. 348 clarifying that cultivation of marijuana is expressly prohibited in all zones in the County with limited exemptions from enforcement for medical marijuana cultivation under specified conditions and standards in certain identified zones. Per the Board's direction, the specified conditions and standards under which the cultivation of medical marijuana would be exempted from enforcement would be set forth in a new separate ordinance (Ordinance No. 925). A copy of the Board's November 25, 2014 agenda item is attached to this staff report for reference.

A draft of proposed Ordinance No. 925, an Ordinance of the County of Riverside Prohibiting Marijuana Cultivation and Declaring Marijuana Cultivation to be a Nuisance, is attached to this staff report for informational purposes only. Proposed Ordinance No. 925, declares marijuana cultivation, either indoors or outdoors, upon any premises within all unincorporated areas to be prohibited and a public nuisance subject to abatement and administrative civil penalties. As directed by the Board, proposed Ordinance No. 925 states that the County is committed to making efficient and rational use of its limited investigative and prosecutorial resources and that there shall be a limited exemption from enforcement for violations of Ordinance No. 925 by primary caregivers and qualified patients for small amounts of marijuana cultivation for their own medical use in zone classifications identified Section 3.4 of Ordinance No. 348 when all of the following conditions and standards are complied with:

1. The premises shall contain a legally permitted one-family dwelling.
2. Cultivation of no more than twelve (12) marijuana plants per qualified patient.
3. Two (2) qualified patient limit to aggregate marijuana plant count for a maximum total of twenty-four (24) marijuana plants per premises.
4. At least one qualified patient or one primary caregiver must live on the premises.
5. All marijuana plants must be reasonably secured to prevent access by minors or theft, to a standard satisfactory to the enforcement officer.
6. All marijuana cultivation outside of any building must be fully enclosed by an opaque fence at least six feet in height. The fence must be adequately secure to prevent unauthorized entry. Bushes, hedgerows, plastic sheeting, or cloth material (tarps) shall not constitute an adequate fence.

7. Each building or outdoor area in which the marijuana plants are cultivated shall be set back at least ten (10) feet from all boundaries of the premises. Such setback distance shall be measured in a straight line from the building in which the marijuana plants are cultivated, or, if the marijuana plants are cultivated in an outdoor area, from the fence required by number 6 above to the boundary line of the premises.
8. The designated marijuana cultivation area must not be visible from any public right-of-way.
9. If the person cultivating marijuana plants on any premises is not the owner of the premises, such person shall submit a notarized letter from the owner(s) consenting to the marijuana cultivation on the parcel. This letter shall be examined by the enforcement officer, and shall then be returned to the submitter. The County shall prescribe forms for such letters.
10. Convicted felons, parolees or probationers shall not live on the premises.
11. Qualified patients for whom the marijuana plants are being cultivated shall have valid Medical Marijuana Identification Cards issued by the Riverside County Department of Public Health.
12. The address for the premises must be posted and plainly visible from the public right-of-way.
13. The marijuana cultivation shall not be within a multi-dwelling building.
14. The marijuana cultivation shall not be upon any premises located within one thousand (1,000) feet of any school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility.

Under proposed Ordinance No. 925, any marijuana cultivation that does not comply with all of the above standards and conditions shall be subject to nuisance abatement enforcement and administrative civil penalties.

Per the Board's direction, proposed ordinances 348.4802 and 925 are not intended as, and should not be construed as, a legalization of marijuana under any circumstances but are an attempt to prioritize the County's civil abatement, prosecutorial and public safety resources with regard to marijuana cultivation. Under no circumstances will the County issue any types of land use permits or entitlements authorizing marijuana cultivation.

As stated above, the draft of proposed Ordinance No. 925 is being provided to the Planning Commission for informational purposes only. Consistent with Government Code sections 65850 and 65853 through 65855, the Planning Commission can only make a recommendation to the Board of Supervisors on Ordinance No. 348.4802. The Planning Commission will not be taking action on Ordinance No. 925 which will be brought to the Board of Supervisors for the Board's consideration and action at a publicly noticed meeting at a later date.

**RECOMMENDATIONS:**

**THE PLANNING COMMISSION RECOMMENDS THAT THE BOARD OF SUPERVISORS TAKE THE FOLLOWING ACTIONS:**

**FIND** that the proposed amendment is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) and 15308.

**ADOPT** ORDINANCE NO. 348.4802 based upon the findings and conclusions incorporated in the staff report.

**FINDINGS:**

1. The proposed amendment applies to all unincorporated areas of Riverside County.
2. The proposed amendment does not alter or change any of the permitted land uses in the County. No new land uses are being authorized or permitted by the proposed amendment.
3. The proposed amendment does not authorize the County to issue any types of land use permits or entitlements for marijuana cultivation.
4. Marijuana cultivation in the unincorporated area of Riverside County can adversely affect the health, safety, and well-being of County residents. Countywide prohibition of marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation. As recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.
5. The proposed ordinance amendment is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Ordinance No. 348 is a prohibitive zoning ordinance. If a use is not listed in the ordinance, it is prohibited. Marijuana cultivation has never been listed as a use in Ordinance No. 348. The proposed amendment further clarifies that marijuana cultivation is not a permitted use under Ordinance No. 348. The proposed amendment also clarifies that any use that is illegal under State or Federal law is not allowed under Ordinance No. 348. No new land disturbance or development projects are associated with this ordinance amendment and it does not commit the County to approve any new land disturbance or development. In addition, the proposed amendment is also exempt from CEQA under CEQA Guidelines section 15308 – Actions taken by Regulatory Agencies for Protection of the Environment. The proposed amendment is being done to make clear that marijuana cultivation is prohibited and that all uses illegal under State and Federal law are also not allowed under Ordinance No. 348. Proposed Ordinance No. 925 sets forth the enforcement structure for violations of the ordinance with regard to marijuana cultivation.

**CONCLUSIONS:**

1. The proposed ordinance amendment in conformance with the Land Use Designations of the unincorporated area of Riverside County, and with all other elements of the Riverside County General Plan. As stated above, Ordinance No. 348.4802 does alter or change any of the permitted land uses in the County. No new land uses are being authorized or permitted by the proposed amendment.
2. The proposed ordinance amendment is consistent with the zone classifications of Ordinance No. 348, and with all other applicable provisions of Ordinance No. 348.
3. The public's health, safety, and general welfare are protected through this ordinance amendment.

4. The proposed project will not have a significant effect on the environment.

**INFORMATIONAL ITEMS:**

1. As of this writing, no letters, in support or opposition have been received.
2. The amendment covers all properties and parcels within the unincorporated areas of Riverside County.

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Supervisor Kevin Jeffries and Supervisor Jeff Stone

**SUBMITTAL DATE:**  
November 25, 2014

**SUBJECT:** Report on Status of Amendment to Ordinance No. 348 Prohibiting the Cultivation of Marijuana with Limited Exemption and Initiation of an Ordinance Establishing the Conditions and Standards for a Limited Exemption from Enforcement of the County's Prohibition on Marijuana Cultivation for Registered Medical Marijuana Patients.

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Receive and file this report on the status of an amendment to Ordinance No. 348 enhancing the penalties for the cultivation of marijuana with a limited exemption from enforcement of the prohibition of cultivation for registered medical marijuana patients.
2. Adopt an order initiating a new County ordinance that would enhance the penalties on large scale marijuana cultivation and set forth the conditions and standards for a limited exemption from enforcement of the County's prohibition on medical marijuana cultivation for medical marijuana patients, the framework of which is broadly set forth in this status report.
3. Direct the Planning Department, County Public Health Officer, Code Enforcement Department and County Counsel to prepare and process the new ordinance and the amendment to Ordinance No. 348, in consultation with the Sheriff's Department.

Departmental Concurrence

(continued on page 2)

*Kevin Jeffries*  
Kevin Jeffries,  
First District Supervisor

*Jeff Stone*  
Jeff Stone,  
Third District Supervisor

FINANCIAL DATA	Current Fiscal Year	Next Fiscal Year	Total Cost	Ongoing Cost	POLICY COMMENT (For Exec. Office)
COST	\$	\$	\$	\$	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$	\$	\$	\$	

**SOURCE OF FUNDS:**

Budget Adjustment:

For Fiscal Year:

**C.E.O. RECOMMENDATION:**

**County Executive Office Signature**

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Stone, Benoit and Ashley  
 Nays: None  
 Absent: Tavaglione  
 Date: November 25, 2014  
 xc: Supvr. Jeffries, Supvr. Stone, Co.Co., Auditor, Planning  
 Public Health, Code Enforce., Sheriff

Kecia Harper-Ihem  
Clerk of the Board  
By: *[Signature]*  
Deputy

- A-30
- Positions Added
- Change Order
- 4/5 Vote

Prev. Agn. Ref.: 3-1 of 7/29/14; 3-2 of 9/23/14 | District: ALL | Agenda Number:

**3-1**

**FORM 11: Report on Status of Amendment to Ordinance No. 348 Prohibiting the Cultivation of Marijuana with Limited Exemption and Initiation of an Ordinance Establishing the Conditions and Standards for a Limited Exemption from Enforcement of the County's Prohibition**

**DATE:** [DATE]

**PAGE:** 2 of 3

**BACKGROUND:**

On July 29, 2014, in Agenda Item 3-1, the Board adopted an order to initiate an amendment to Ordinance No. 348 and set for public hearing Interim Ordinance No. 449.247 enhancing the penalties for the cultivation of marijuana with varying penalty amounts based upon the number of marijuana plants. During the Board's discussion of the agenda item, the majority of the Board stressed that they were focused on commercial, large-scale marijuana grows and wanted to direct public safety resources toward enforcement against such commercial, large-scale marijuana operations. Board members commented that they did not want County resources used to prosecute registered medical marijuana patients growing small amounts of marijuana for their own medicinal use. The Board further agreed to have Supervisors Stone and Jeffries work to refine the interim ordinance, based on the comments of the Board, before it came back for a public hearing.

Instead of adopting an interim ordinance that would have only been a temporary fix, it is now recommended that the Board move forward with an amendment to Ordinance No. 348, the County's zoning ordinance. The amendment will clarify that cultivation of marijuana is expressly prohibited in all zones in the County with limited exemptions from enforcement for medical marijuana cultivation under specified conditions and standards in certain identified zones. The specified conditions and standards under which the cultivation of medical marijuana would be exempted from enforcement would be set forth in a new separate ordinance. Those cultivating marijuana outside of this exemption would be subject to increased penalties and removal of plants based on the number of illegal plants possessed by the grower.

Marijuana remains an illegal substance under the Federal Controlled Substances Act and continues to be classified as a Schedule 1 Drug, making it unlawful under federal law to cultivate, manufacture, distribute, dispense or transport marijuana. The proposed actions outlined in this agenda item are not intended as, and should not be construed as, a legalization of marijuana under any circumstances but are an attempt to prioritize the County's civil abatement, prosecutorial and public safety resources. Specifically, it is recommended that the new ordinance make clear that registered medical marijuana patients, and their caregivers, would be exempt from enforcement of County ordinances with regard to small amounts of marijuana cultivation for their own medicinal use only under the following conditions and standards:

1. Twelve (12) plant limit per patient.
2. Two (2) patient limit to aggregate plant count for a maximum total of twenty-four (24) plants per parcel.
3. At least one patient or registered caregiver must live on the parcel.
4. Marijuana must be reasonably secured to prevent access by minors or theft.
5. The grow area must have a minimum setback from the property boundary of ten (10) feet and fifty (50) feet from an adjacent residential structure.
6. The designated grow area must not be visible from any public right-of-way.
7. If renting, the tenant must have consent of the property owner for cultivation of marijuana.
8. Convicted felons, parolees or probationers must not live on the property.
9. Patients for whom the medical marijuana is being grown must have a valid Riverside County Medical Marijuana Identification Card.
10. The property address must be posted and plainly visible from the street.
11. Fencing and any other structures used to grow, conceal, or secure medical marijuana plants must comply with County building standards and codes.

The above list is only a conceptual framework. The ordinance and ordinance amendment preparation process may result in the need to create further conditions or standards and further refine and define those listed above. Any marijuana cultivation that does not fall with the conditions and standards of the enforcement

**FORM 11: Report on Status of Amendment to Ordinance No. 348 Prohibiting the Cultivation of Marijuana with Limited Exemption and Initiation of an Ordinance Establishing the Conditions and Standards for a Limited Exemption from Enforcement of the County's Prohibition**

DATE: [DATE]

PAGE: 3 of 3

exemption will remain strictly prohibited in the County and will be subject to increased penalties and enforcement under local, state, and federal laws.

Since the zoning ordinance is several hundred pages in length and focused on land uses, placing the conditions and standards for exemption from enforcement for medical marijuana cultivation in a new separate ordinance would make the provisions easily accessible to registered medical marijuana patients. It would also allow the Board to have greater flexibility in making amendments to the new separate ordinance to reflect any changes in state and federal law with regard to marijuana. Amendments to the County's land use ordinance typically require public hearings before the Planning Commission and the Board of Supervisors under state law, whereas, amendments to other ordinances normally do not.

As stated in earlier agenda items on this topic, a collaborative multi-department ordinance planning and preparation strategy remains recommended. Departments such as the Sheriff's Department, the Planning Department, the County Public Health Officer, the Code Enforcement Department, the District Attorney's Office, and the County Counsel's Office will likely each be required to enforce or process some provision of the ordinances once effective. For this reason, it is crucial that each of these departments be fully involved during the ordinance preparation process and that these departments make this a priority.

In accordance with Government Code section 65850 and 65853, any ordinance that regulates the use of land, such as this amendment to the County's zoning ordinance must be considered first by the Planning Commission. Therefore, once prepared, the amendment to Ordinance No. 348 will be heard at the Planning Commission at a noticed public hearing before being presented to the Board of Supervisors for possible adoption. The new separate ordinance will also be presented to the Planning Commission with the amendment to Ordinance No. 348 which will afford members of the public the opportunity to review and comment on both before being submitted to the Board for possible final adoption.

**Impact on Residents and Businesses**

The proliferation of large-scale marijuana groves increases the risk of criminal activity, degradation of the natural environment and often results in illegal electrical and water connections and alterations. Large-scale marijuana cultivation also creates increased nuisance impacts to neighboring properties. The purpose of these amendments are to provide for greater enforcement against such large-scale marijuana grows with the goal of improving community livability and protecting public health, safety, and welfare, while also recognizing a limited enforcement exemption for small amounts of marijuana cultivated for medicinal uses by registered medical marijuana patients.



**NOTICE OF EXEMPTION**

To: \_\_\_\_\_ Office of Planning and Research                      From: County of Riverside  
                         1400 Tenth Street, Room 121    4080 Lemon Street  
                         Sacramento, CA 95814    Riverside, CA 92501  
To:   X   Office of the County Clerk & Recorder

**Project Title:** Ordinance Nos. 348.4802 and 925 Prohibiting Marijuana Cultivation and Declaring Marijuana Cultivation to be a Public Nuisance.

**Project Location:** The unincorporated area of Riverside County.

**Project Description:** Ordinance Nos. 348.4802 and 925 both address marijuana cultivation in the unincorporated area of Riverside County. Ordinance No. 348.4802 adds new provisions to Ordinance No. 348 (Section 3.4) clarifying that cultivation of marijuana is prohibited in all zone classifications throughout the unincorporated area of the County and that no permit of any type shall be issued for marijuana cultivation. Ordinance No. 348.4802 further provides that there shall be a limited exemption from enforcement for violations of the ordinance for marijuana cultivation in specified zones in conjunction with a one-family dwelling if such marijuana cultivation complies with the conditions and standards set forth in a separate nuisance ordinance, Ordinance No. 925. Ordinance No. 348.4802 also amends Section 3.3 of Ordinance No. 348 to state that any use that is illegal under State or Federal law is not allowed under Ordinance No. 348. Ordinance No. 925 declares marijuana cultivation, either indoors or outdoors, upon any premises within all unincorporated areas to be prohibited and a public nuisance subject to abatement and administrative civil penalties. Ordinance No. 925 contains a limited exemption from enforcement for violations of the ordinance by primary caregivers and qualified patients for small amounts of marijuana cultivation for their own medical use in zone classifications identified in Section 3.4 of Ordinance No. 348 when the standards and conditions set forth in Section 12 of Ordinance No. 925 are met. Ordinance No. 925 also contains sections regarding abatement of unlawful marijuana cultivation and appeals hearings, summary abatements, recovery of abatement costs and attorneys’ fees, authorization for the placement of special assessments and liens, treble damages, misdemeanor penalties, and enforcement by civil actions. Ordinance No. 925 allows for administrative civil penalties of up to \$1000 per day for violations of the ordinance and contains sections regarding appeal and judicial review of administrative civil penalties, as well as collection of such penalties.

**Name of Public Agency Approving Project:** County of Riverside

**Name of Person or Agency Carrying Out Project:** County of Riverside

**Exempt Status:** (check one)

- Ministerial
- Declared Emergency
- Emergency Project
- X Categorical Exemption: CEQA Guidelines Sec. 15308
- Statutory Exemption:
- X Other: (State CEQA Guidelines Sec. 15060(c)(2), 15060(c)(3), 15061(b)(3))

**Reasons Why Project is Exempt:** Ordinance Nos. 348.4802 and 925 are exempt from the provisions of the California Environmental Quality Act (CEQA) because the ordinances are not a “project” under CEQA pursuant to CEQA Guidelines sections 15060(c)(2) and 15060(c)(3) because the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment and the activity is not a project as defined in CEQA Guidelines section 15378. Additionally, the ordinances are exempt from CEQA per CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. This determination is an issue of fact and if sufficient evidence exists in the record that the activity cannot have a significant effect on the environment, then the exemption applies and no further evaluation under CEQA is required. See *Muzzy Ranch Co. v. Solana County Airport Land Use Comm’n* (2007) 41 Cal.4<sup>th</sup> 372. With certainty, there is no possibility that the ordinances may have a significant effect on the environment.

Ordinance No. 348 is a prohibitive zoning ordinance. If a use is not listed in Ordinance No. 348, it is prohibited. Marijuana cultivation has never been listed as a use in Ordinance No. 348. Ordinance No. 348.4802 further clarifies that marijuana cultivation is not a permitted use under Ordinance No. 348 and that any use that is illegal under State or Federal law is not allowed under Ordinance No. 348. No new land disturbance or development projects are associated with these ordinances and the ordinances do not commit the County to approve any new land disturbance or development. While the ordinances do recognize an exemption for enforcement for violations of the ordinances, such exemptions are in very limited situations and would involve qualified patients or primary caregivers growing a small number of marijuana plants at their own existing residences, no more than 24 plants for two qualified patients, which would be of a minimal impact, if any, with no possibility of such limited situations having a significant effect on the environment. In order to be considered for an exemption from enforcement under Section 12 of Ordinance No. 925, qualified patients for whom the marijuana plants are being cultivated must have valid Medical Marijuana Identification Cards issued by the Riverside County Department of Public Health (“DoPH”). According to DoPH, approximately 1,728 Medical Marijuana Identification Cards were issued countywide, including all cities and unincorporated areas, by DoPH from January 1, 2013 to date. 625 cards were issued in 2013, 821 cards were issued in 2014, and 282 cards have been issued this year. California Department of Finance provisional population estimates for Riverside County for 2015 are 2,308,441 people countywide including all cities and 368,823 people in the unincorporated area. California Department of Finance population estimates for Riverside County for 2014 were 2,280,191 countywide including all cities and 364,140 people in the unincorporated area. The number of qualified patients with Medical Marijuana Identification Cards is minimal in comparison to the overall population of the unincorporated area of the County. Therefore, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment given the limited number of people that could be eligible for the exemption from enforcement under the ordinances for cultivation of a small number of marijuana plants at their own existing residences.

Finally, in addition to the foregoing general exemptions, the ordinances are exempt from CEQA under CEQA Guidelines section 15308 – Actions taken by Regulatory Agencies for Protection of the Environment. As set forth in the findings of Ordinance No. 925, large-scale illegal marijuana cultivation degrades the natural environment. The ordinances are being done to make clear that marijuana cultivation is prohibited and that all uses illegal under State and Federal law are also not allowed under Ordinance No. 348. Ordinance No. 925, a nuisance abatement ordinance, sets forth the enforcement structure for violations of the ordinances with regard to marijuana cultivation.

\_\_\_\_\_  
County Contact Person

\_\_\_\_\_  
Phone Number

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**For County Clerk’s Use Only**