

1 ORDINANCE NO. 925.1

2 AN ORDINANCE OF THE COUNTY OF RIVERSIDE
3 AMENDING ORDINANCE NO. 925 PROHIBITING MARIJUANA CULTIVATION AND
4 DECLARING MARIJUANA CULTIVATION TO BE A NUISANCE

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

6 Section 1. The title of Ordinance No. 925 is amended to read as follows:

7 “ORDINANCE NO. 925

8 AN ORDINANCE OF THE COUNTY OF RIVERSIDE

9 PROHIBITING CANNABIS CULTIVATION

10 AND DECLARING CANNABIS CULTIVATION TO BE A NUISANCE”

11 Section 2. Section 1. of Ordinance No. 925 is amended to read as follows:

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

- 14 a. In 1996, the voters of the State of California approved Proposition 215
15 (codified as California Health and Safety Code section 11362.5, and entitled
16 “The Compassionate Use Act of 1996”).
- 17 b. The intent of Proposition 215 was to enable persons who are in need of
18 marijuana for medical purposes to use it without fear of criminal
19 prosecution under limited, specified circumstances. The proposition further
20 provides that “nothing in this section shall be construed to supersede
21 legislation prohibiting persons from engaging in conduct that endangers
22 others, or to condone the diversion of marijuana for non-medical purposes.”
23 The ballot arguments supporting Proposition 215 expressly acknowledged
24 that “Proposition 215 does not allow unlimited quantities of marijuana to be
25 grown anywhere.”
- 26 c. In 2004, the Legislature enacted Senate Bill 420 (codified as California
27 Health and Safety Code sections 11362.7 et seq., and referred to as the
28 “Medical Marijuana Program”) to clarify the scope of Proposition 215, and
to provide qualifying patients and primary caregivers who collectively or

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1 cooperatively cultivate marijuana for medical purposes with a limited
2 defense to certain specified state criminal statutes. Assembly Bill 2650
3 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana
4 Program to expressly recognize the authority of counties and cities
5 to “[a]dopt local ordinances that regulate the location, operation, or
6 establishment of a medical marijuana cooperative or collective” and to
7 civilly and criminally enforce such ordinances.

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

17 e. In 2015, the Legislature enacted the Medical Marijuana Regulation and
18 Safety Act (“MMRSA”) (Assembly Bills 243 and 266, Senate Bill 643)
19 which created a licensing and regulatory framework for medical marijuana
20 in California and enabled local governments to implement additional
21 standards to permit, regulate, or ban medical marijuana businesses and
22 marijuana activities within their jurisdictions. The MMRSA contained a
23 dual licensing structure that required applicants seeking medical marijuana
24 business licenses to obtain both a state license and a local license. If the
25 local government does not allow medical marijuana businesses and
26 marijuana activities in its jurisdiction, the applicant cannot obtain a state
27 license.

28 f. In 2016, Senate Bill 837 changed MMRSA’s name to the Medical Cannabis
Regulation and Safety Act (“MCRSA”).

- 1 g. On November 8, 2016, Californians approved Proposition 64, the Adult Use
2 of Marijuana Act (“AUMA”), which legalized recreational use (adult-use)
3 of marijuana for adults ages 21 and over. Under state law, adults may now
4 use, possess, process, transport or give away 28.5 grams of marijuana or 8
5 grams of concentrated cannabis. The AUMA further allows adults to
6 cultivate six plants inside a private residence or within a locked area on the
7 grounds of the private residence. No more than six marijuana plants may be
8 cultivated per private residence, no matter how many people live there.
- 9 h. On June 27, 2017, the Governor signed Senate Bill 94, the Medicinal and
10 Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The
11 MAUCRSA unifies both the medical regulatory scheme and the adult-use
12 scheme to achieve a single regulatory structure at the state level. The
13 MAUCRSA shifts from the term “marijuana” to “cannabis.” The
14 MAUCRSA continues to recognize local control and the state cannot
15 approve licenses for cannabis businesses and cannabis activities if the
16 license would not be in compliance with a local government’s ordinances or
17 regulations. As with the AUMA, local governments must allow cultivation
18 of six plants inside a private residence or inside a fully enclosed and secure
19 accessory structure to a private residence. The MAUCRSA continues to
20 recognize the ability of local governments to prohibit all outdoor cultivation
21 and any other cannabis businesses and cannabis activities. The MAUCRSA
22 makes clear that nothing in the MAUCRSA is to be interpreted to supersede
23 or limit the County’s authority to adopt and enforce local ordinances to
24 regulate cannabis businesses and cannabis activities licensed by the state, up
25 to and including the County’s right to prohibit the activity.
- 26 i. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies
27 marijuana as a Schedule I Drug, which is defined as a drug or other
28 substance that has a high potential for abuse, that has no currently accepted
medical use in treatment in the United States, and that has not been

1 accepted as safe for use under medical supervision. The Federal Controlled
2 Substances Act makes it unlawful, under federal law, for any person to
3 cultivate, manufacture, distribute or dispense, or possess with intent to
4 manufacture, distribute or dispense, marijuana. The Federal Controlled
5 Substances Act contains no exemption for the cultivation, manufacture,
6 distribution, dispensation, or possession of marijuana for medical purposes.

7 j. Cannabis cultivation in the unincorporated area of Riverside County can
8 adversely affect the health, safety, and well-being of County residents.
9 Countywide prohibition of cannabis cultivation is proper and necessary to
10 avoid the risks of criminal activity, degradation of the natural environment,
11 malodorous smells, and indoor electrical fire hazards that may result from
12 unregulated cannabis cultivation, and that are especially significant if the
13 amount of cannabis cultivated on a single premises is not regulated and
14 substantial amounts of cannabis are thereby allowed to be concentrated in
15 one place.

16 k. Cannabis cultivation at locations or premises within one thousand feet of
17 schools, parks, and community centers creates unique risks that the
18 cannabis plants may be observed by minors, and therefore be especially
19 vulnerable to theft or recreational consumption by minors. Further, the
20 potential for criminal activities associated with cannabis cultivation in such
21 locations poses heightened risks that minors will be involved or endangered.
22 Therefore, any amount of cannabis cultivation in such locations or premises
23 is especially hazardous to public safety and welfare, and to the protection of
24 children and the person(s) cultivating the cannabis plants.

25 l. Except for personal cannabis cultivation as provided in subsection b. of
26 Section 4. of this ordinance, all cannabis cultivation is prohibited upon any
27 premises within all unincorporated areas of Riverside County.

28 m. The County is committed to making efficient and rational use of its limited
investigative and prosecutorial resources. There shall be a limited

1 exemption from enforcement for violations of this ordinance by primary
2 caregivers and qualified patients for small amounts of cannabis cultivation
3 for their own medical use in zone classifications identified section 3.4 of
4 Ordinance No. 348 when all of the conditions and standards in section 12 of
5 this ordinance are met.”

6 Section 3. Section 2. of Ordinance No. 925 is amended to read as follows:

7 “Section 2. AUTHORITY. This ordinance is adopted pursuant to the authority
8 granted by Article XI, section 7 of the California Constitution, Business and
9 Professions Code section 26200, Health and Safety Code section 11362.83, and
10 Government Code sections 25845 and 53069.4.”

11 Section 4. New subsections b., c., and d. are added to Section 3. of Ordinance No. 925
12 to read as follows:

13 “b. Cannabis. All parts of the plant *Cannabis sativa Linnaeus, Cannabis*
14 *indica, or Cannabis ruderalis,* or any other strain or varietal of the genus
15 *Cannabis* that may exist or hereafter be discovered or developed that has
16 psychoactive or medicinal properties, whether growing or already
17 harvested, including the seeds thereof. “Cannabis” also means cannabis as
18 defined by Business and Professions Code section 26001 and Health and
19 Safety Code section 11018. “Cannabis” does not mean “industrial hemp”
20 as defined by Food and Agricultural Code section 81100 or Health and
21 Safety Code section 11018.5. For the purpose of this ordinance, cannabis is
22 not a crop.

23 c. Cannabis Cultivation. The planting, growing, harvesting, drying, curing,
24 grading, trimming, or storage of one or more cannabis plants or any part
25 thereof in any location, indoor or outdoor, including from within a fully
26 enclosed and secure building.

27 d. Cannabis Plant. Any mature or immature cannabis plant, or any cannabis
28 seedling.”

Section 5. Existing subsections b., c., d., e. and f. of Section 3. of Ordinance No. 925

1 are relettered subsections e., f., g., h., and i., respectively.

2 Section 6. Existing subsection g. of Section 3. of Ordinance No. 925 is relettered ^{re}
3 subsection j. and amended to read as follows:

4 “j. Marijuana. Cannabis.”

5 Section 7. Existing subsection h. of Section 3. is repealed in its entirety.

6 Section 8. Existing subsections i., j., k., l., m., n., o., p., q., and r. of Section 3. of
7 Ordinance No. 925 are relettered subsections k., l., m., n., o., p., q., r., s. and t., respectively.

8 Section 9. Section 4. of Ordinance No. 925 is amended to read as follows:

9 “Section 4. PROHIBITIONS ON CANNABIS CULTIVATION. NUISANCE
10 DECLARED.

11 a. Cannabis cultivation, either indoors or outdoors, fixed or mobile,
12 upon any premises within all unincorporated areas of Riverside
13 County is prohibited and hereby declared to be unlawful and a public
14 nuisance that may be abated in accordance with this ordinance. The
15 foregoing prohibition shall be imposed regardless of the number of
16 qualified patients or primary caregivers residing at the premises or
17 participating directly or indirectly in the cultivation. Further, this
18 prohibition shall be imposed notwithstanding any assertion that the
19 person(s) cultivating cannabis are the primary caregiver(s) for
20 qualified patients or that such person(s) are collectively or
21 cooperatively cultivating cannabis.

22 b. The prohibition in this section shall not prohibit a person 21 years of
23 age or older from engaging in the indoor cannabis cultivation of six
24 or fewer live cannabis plants within a single private residence or
25 inside a detached accessory structure located upon the grounds of a
26 private residence that is fully enclosed and secured, to the extent
27 such cultivation is authorized by Health and Safety Code sections
28 11362.1 and 11362.2. In no event shall more than six live cannabis
plants be allowed per private residence under this subsection,

1 regardless of the number of persons 21 years of age or older living at
2 the private residence. For the purposes of this subsection, private
3 residence means a one family dwelling, apartment unit, mobile home
4 or other similar dwelling.”

5 Section 10. The term “marijuana” is replaced with the term “cannabis” wherever the
6 term “marijuana” is used in Section 5. through Section 25. in Ordinance No. 925.

7 Section 11. EFFECTIVE DATE. This ordinance shall take effect thirty (30) calendar
8 days after its adoption.

10 BOARD OF SUPERVISORS OF THE COUNTY
11 OF RIVERSIDE, STATE OF CALIFORNIA

12 By: _____

13 Chairman

13  JOHN TAVAGLIONE

14 ATTEST:

15 CLERK OF THE BOARD

16
17 By: _____

18 Deputy

19
20 (SEAL)

21
22 APPROVED AS TO FORM

23 August 17, 2017

24
25 By: _____

26 TIFFANY N. NORTH
27 Chief Deputy County Counsel

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STATE OF CALIFORNIA)
) ss
COUNTY OF RIVERSIDE)

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said county held on September 12, 2017, the foregoing ordinance consisting of 11 Sections was adopted by the following vote:

AYES: Jeffries, Tavaglione, Washington and Perez
NAYS: None
ABSENT: None
ABSTAIN: Ashley

DATE: September 12, 2017

KECIA HARPER-IHEM
Clerk of the Board
BY: 
Deputy

SEAL