

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



**FROM:** Supervisor Kevin Jeffries

**SUBMITTAL DATE:** July 25, 2014

**SUBJECT:** Order to Initiate an Amendment to Ordinance No. 348 and Set for Public Hearing Interim Ordinance No. 449.247 Prohibiting the Cultivation of Marijuana

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

1. Set for public hearing on September 9, 2014, Ordinance No. 449.247, An Interim Ordinance Prohibiting the Cultivation of Marijuana and Incorporating Ordinance No. 725, as authorized by Government Code section 65858(b); and
2. Direct the Clerk of the Board to publish notice of the public hearing pursuant to Government Code section 65090; and
3. Adopt an order initiating an amendment to Ordinance No. 348 that would clarify cultivation of marijuana is expressly prohibited; and
4. Direct the Planning Department and County Counsel to prepare and process the amendment to Ordinance No. 348 in consultation with the Sheriff's Department, as well as any possible extensions of the Interim Ordinance.

**BACKGROUND:** The cultivation of marijuana is currently not a permitted use in any zone classification in the County. Section 3.3 of Ordinance No. 348 provides that when a use is not specifically listed as permitted or conditionally permitted in a zone classification, the use is prohibited, unless, in circumstances where [Ordinance No. 348] empowers him to do so, the Planning Director makes a determination that the use is substantially the same in character and intensity as to those uses permitted or conditionally permitted in the zone classification. In addition, Section 3.3 expressly prohibits Medical Marijuana Dispensaries in all zone classifications.

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KEVIN JEFFRIES, First District Supervisor

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
**FORM 11: Order to Initiate an Amendment to Ordinance No. 348 and Set for Public Hearing Interim**  
**Ordinance No. 449.247 Prohibiting the Cultivation of Marijuana**  
**DATE: July 25, 2014**  
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Like Medical Marijuana Dispensaries, cultivation of marijuana should be expressly prohibited in the County's zoning ordinance. Such a prohibition on the cultivation of marijuana has been upheld by the Courts in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975. There, the Court of Appeal determined that the Compassionate Use Act and the Medical Marijuana Program Act did not preempt an ordinance prohibiting the cultivation of all marijuana.

In the First District alone, hundreds of marijuana groves have been observed. The proliferation of marijuana groves increases the risk of criminal activity, degradation of the natural environment and often results in illegal electrical and water connections and alterations. Marijuana cultivation also creates increased nuisance impacts to neighboring properties because of the strong, malodorous, and potentially noxious odors which come from the plants. Marijuana remains an illegal substance under the Federal Controlled Substances Act (21 USC Sections 801, et seq.). It continues to be classified as a Schedule 1 Drug, making it unlawful under federal law to cultivate, manufacture, distribute, dispense or transport marijuana.

The purpose of Interim Ordinance No. 449.247 and the amendment to Ordinance No. 348 would be to clarify that cultivation is expressly prohibited and to address the large-scale marijuana groves that are proliferating in the County so as to protect the public safety, health and welfare. A large-scale marijuana grove would be subject to a misdemeanor violation and a fine of up to \$1,000 and up to six months in jail, while cultivation of only a few plants would result in an infraction and fine of up to \$10. Large-scale marijuana groves could also be abated using the nuisance abatement remedies set forth in Riverside County Ordinance No. 725.

Because marijuana groves and cultivation can adversely affect the health, safety and welfare of the County and its residents, County Counsel should be directed to return with Interim Ordinance No. 449.247, as well as an amendment to the County's zoning ordinance (No. 348) clarifying that cultivation of marijuana is expressly prohibited in all zone classifications within the County for the reasons set forth above. The purpose of the Interim Ordinance No. 449.247, and any extension thereof, is to give the County an opportunity to study, formulate and adopt permanent zoning prohibitions in Ordinance No. 348 addressing marijuana cultivation.

Should the recommended motion be approved, Interim Ordinance No. 449.247 will be returned to the Board on September 9, 2014 for public hearing upon giving the required ten day published notice. The Interim Ordinance will remain in effect for 45 days from the date of its adoption. If Interim Ordinance No. 449.247 is adopted on September 9, 2014, the Interim Ordinance would need to be returned to the Board no later than October 21, 2014 if it needs to be extended. An extension requires a ten-day published notice and may not last longer than 22 months and 15 days. Both the Interim Ordinance and any extension of the Interim Ordinance require a 4/5 vote for adoption.



1 shall be guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200).  
2 Any person or entity convicted of cultivating twelve or more marijuana plants shall be guilty of a  
3 misdemeanor offense punishable by a fine not exceeding one thousand dollars (\$1,000) or six months in  
4 jail, or both, and shall be deemed guilty of a separate offense for each and every day or portion thereof  
5 during which any violation of this ordinance is committed, continued or permitted. Payment of any  
6 penalty herein shall not relieve a person from the responsibility for correcting the violation.  
7 Notwithstanding the above, the remedies, penalties and procedures for violation of this ordinance are set  
8 forth in Riverside County Ordinance No. 725, which is incorporated by this reference.

9           Section 3. Pursuant to section 65858, subdivision (b), of the Government Code and  
10 section 20.4 of Ordinance No. 348, this interim ordinance shall take effect immediately. In adopting this  
11 ordinance, the Board finds that marijuana cultivation poses a current and immediate threat to the public  
12 health, safety and welfare, and that the approval of any permits or entitlements of any kind would result in  
13 that threat to public health, safety and welfare, for the following reasons: In the First District alone,  
14 hundreds of marijuana groves have been observed. Marijuana groves and cultivation increase the risks of  
15 criminal activity, the degradation of the natural environment and often results in illegal or hazardous  
16 electrical and water connections and alterations. Marijuana cultivation also creates increased nuisance  
17 impacts to neighboring properties because of the strong, malodorous, and potentially noxious odors which  
18 come from the plants. Without this interim ordinance, marijuana groves and cultivation will continue to  
19 proliferate within the County causing adverse impacts to the County and its residents. There is no  
20 feasible alternative to satisfactorily protect against, mitigate or avoid these adverse impacts as well or  
21 better, with a less burdensome or restrictive effect, than the adoption of the interim ordinance.

22           Section 4. In adopting this ordinance, the Board reports that measures to alleviate the  
23 condition that led to its adoption will be taken and that such measures shall include, but not be limited to,  
24 the formulation and adoption of an amendment to Riverside County Ordinance No. 348 clarifying that  
25 cultivation of marijuana is prohibited in all zone classifications in the County.

26           Section 5. This ordinance shall be of no further force or effect forty-five (45) days  
27 from the date of its adoption, unless it is extended pursuant to law. The Clerk shall schedule a public  
28 hearing before the Board to consider any extension of this ordinance which shall normally be at its second

1 regular meeting before expiration of the initial forty-five (45) day period. The Clerk shall publish notice  
2 ten (10) days before the hearing.

3 Section 6. At or before the public hearing on any proposed extension, and at least ten  
4 (10) days prior to the expiration of this ordinance, the Transportation and Land Management Agency  
5 Director, as designee for the Board, shall make a written report to the Board describing therein all  
6 measures taken to alleviate the condition which led to the adoption of this ordinance.

7 Section 7. This ordinance shall take effect immediately upon adoption if adopted by at  
8 least a four-fifths vote of the Board of Supervisors per Government Code section 65858, subdivision (b).

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

11 By: \_\_\_\_\_  
Chairman

12 ATTEST:

13 CLERK OF THE BOARD:

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15 By: \_\_\_\_\_  
Deputy

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