

**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.

(continued next page)

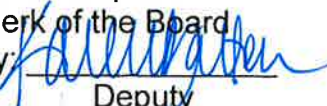


KEVIN JEFFRIES, First District Supervisor

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and is set for September 23, 2014 at 9:30 a.m.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: July 29, 2014
xc: Supvr. Jeffries, Planning, Co.Co., Sheriff, COB

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. ref.

Dist.

AGENDA NO.

3-2

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.