

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

978



**FROM:** County Counsel

**SUBMITTAL DATE:**  
December 1, 2015

**SUBJECT:** Ordinance No. 928 Clarifying the County's Prohibition on Mobile Marijuana Dispensaries and Marijuana Deliveries, Declaring Mobile Marijuana Dispensaries and Marijuana Deliveries to be a Nuisance, and Incorporating By Reference Ordinance No. 725 – All Districts [\$0] – CEQA Exempt

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

1. Find Ordinance No. 928 is not a project under CEQA per CEQA Guidelines sections 15060(c)(2), 15060(c)(3) and 15378 and is otherwise exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) based on the findings and conclusions contained in the attached Notice of Exemption; and
2. Introduce, waive reading of, and adopt on successive weeks Ordinance No. 928, an ordinance of the County of Riverside clarifying its prohibition on mobile marijuana dispensaries and marijuana deliveries and declaring mobile marijuana dispensaries and marijuana deliveries to be a public nuisance.

**BACKGROUND:**

**Summary**

Through this Board's prior actions, the Board of Supervisors has repeatedly made clear its position prohibiting medical marijuana dispensaries and cultivation under its land use authority and police powers.

(cont. page 2)

Gregory P. Priamos  
County Counsel

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

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

APPROVE

BY

Tina Grande

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above ordinance is approved as introduced with a waiver of reading.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley  
Nays: None  
Absent: None  
Date: December 8, 2015  
xc: Co.Co., COB

Kecia Harper-Ihem  
Clerk of the Board  
By   
Deputy

**Prev. Agn. Ref.:** 16-2 of 5/19/15; 3-26 of 6/2/15; 3.30 of 10/3/06.

**District:** ALL

**Agenda Number:**

**3-58**

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

**BACKGROUND:**

**Summary (continued)**

Specifically, on October 3, 2006, the Board adopted an amendment to the County's zoning ordinance, Ordinance No. 348, prohibiting medical marijuana dispensaries in all zone classifications throughout the unincorporated area of the County. "Medical Marijuana Dispensary" is defined in the ordinance as "any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed to, or distributed by, one or more of the following: a primary caregiver, a qualified patient, or a patient with an identification card as those terms are defined in Health and Safety Code Section 11362.5 et seq... ." On May 19, 2015, the Board adopted another amendment to Ordinance No. 348 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. On June 2, 2015, the Board adopted Ordinance No. 925 declaring 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 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 all of the conditions and standards set forth in Section 12 of Ordinance No. 925 are met.

The Governor recently signed Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill No. 643 establishing the Medical Marijuana Regulation and Safety Act ("Act") effective January 1, 2016. The Act, at Business and Professions Code section 19300 et seq., regulates "commercial cannabis activity" which includes "cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product." (Business and Professions Code section 19300.5(k).) The general rule is that upon implementation of regulations under the Act, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license or other authorization from the applicable local jurisdiction. The state will begin issuing licenses in January 2018.

The Act makes clear that nothing in the Act "shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning regulations or local ordinances, or enforcement of local permit or licensing requirements." (Business and Professions Code section 19315(a).) Simply put, if a local jurisdiction does not authorize dispensaries, cultivation, or other marijuana activities, a state license cannot be issued for those activities in that jurisdiction. For that reason, the Act will have limited impact on the unincorporated areas of the County since the County has existing bans on marijuana cultivation and dispensaries pursuant to the Board's prior actions detailed above. The commercial cannabis activity contemplated under the Act, including cultivating, manufacturing, testing, distributing, and dispensing, remains prohibited in the unincorporated areas of the County.

Even though the County bans marijuana activities, the County cannot prevent transportation of medical marijuana or medical marijuana products on public roads by a licensee transporting such products in compliance with the Act. (Business and Professions Code sections 19338(b), 19340(f).) With regard to deliveries of medical marijuana and marijuana products, the Act states that "deliveries... can only be made by a dispensary and in a city, county, or city and county that does not explicitly prohibit it by local ordinance." (Business and Professions Code section 19340(a).)

The County's current definition of "medical marijuana dispensary" in Ordinance No. 348, which includes reference to mobile facilities and locations, prohibits deliveries in the unincorporated areas of the County. That said, it is our recommendation that Ordinance No. 928 be adopted to explicitly prohibit deliveries so as to clarify the County's existing ban on deliveries and be consistent with the explicit language in the Act.

Ordinance No. 928 is not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines sections 15060(c)(2), 15060(c)(3) and 15378 and is otherwise exempt from CEQA pursuant to

CEQA Guidelines section 15061(b)(3) based on the findings and conclusions contained in the attached Notice of Exemption.

**Impact on Residents and Businesses**

This ordinance merely clarifies the County's current prohibition with regard to marijuana deliveries in light of the new state law. Enforcement of this ordinance will be accomplished in conjunction with the County's other existing ordinances prohibiting marijuana dispensaries and cultivation with such enforcement costs being handled under the enforcing departments' existing operating budgets.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

N/A

**ATTACHMENTS:**

1. Ordinance No. 928
2. Notice of Exemption





Health and Safety Code.”

- b. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, the California Supreme Court held that “[n]othing in the [Compassionate Use Act of 1996] or the [Medical Marijuana Program] expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land... .”
- c. On May 19, 2015, in Ordinance No. 348.4802, the Board of Supervisors adopted another amendment to Ordinance No. 348 clarifying that cultivation of marijuana is prohibited in all zone classifications within the unincorporated areas of Riverside County and that no permit of any type shall be issued for marijuana cultivation. Ordinance No. 348.4802 further states that nothing in the County’s zoning ordinance shall be construed to allow a use that is otherwise illegal under State or Federal law.
- d. On June 2, 2015, the Board of Supervisors adopted Ordinance No. 925 declaring 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.
- e. Through its prior actions, the Board of Supervisors has made clear its position with regard to medical marijuana dispensaries, including mobile dispensaries, and cultivation under its land use authority and police powers.
- f. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies marijuana as a Schedule I Drug, which is defined as a drug or other 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 accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled

1 Substances Act contains no exemption for the cultivation, manufacture,  
2 distribution, dispensation, or possession of marijuana for medical purposes.

3 g. On October 9, 2015, the Governor signed Assembly Bill No. 243, Assembly  
4 Bill No. 266, and Senate Bill No. 643 establishing the Medical Marijuana  
5 Regulation and Safety Act ("Act"). The Act, at Business and Professions  
6 Code section 19300 et seq., regulates "commercial cannabis activity" which  
7 includes "cultivation, possession, manufacture, processing, storing,  
8 laboratory testing, labeling, transporting, distribution, or sale of medical  
9 cannabis or a medical cannabis product." Upon implementation of  
10 regulations under the Act, no person shall engage in commercial cannabis  
11 activity without possessing both a state license and a local permit, license or  
12 other authorization from the applicable local jurisdiction.

13 h. Business and Professions Code section 19340 states deliveries of medical  
14 marijuana can only be made by a dispensary in a city, county, or city and  
15 county that does not explicitly prohibit delivery by local ordinance.

16 i. The purpose of this ordinance is to clarify the County's existing prohibition  
17 on marijuana activities, which already includes a ban on mobile marijuana  
18 dispensaries, by explicitly prohibiting medical marijuana deliveries within  
19 all unincorporated areas of Riverside County.

20 Section 2. AUTHORITY. This ordinance is adopted pursuant to the authority granted  
21 by Article XI, section 7 of the California Constitution, Business and Professions Code sections 19315 and  
22 19340, Health and Safety Code section 11362.83, and Government Code sections 25845 and 53069.4.

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

25 a. Delivery. Has the same meaning as the term is defined in Business and  
26 Professions Code section 19300.5, effective January 1, 2016 or thereafter  
27 amended.  
28

- 1                   b.     Mobile Marijuana Dispensary. Any clinic, cooperative, collective, club,  
2                             business or group which transports or delivers, or arranges the  
3                             transportation or delivery, of medical marijuana to a person.
- 4                   c.     Person. Any person, firm, cooperation, association, club, collective,  
5                             society, or other organization. Person shall include any owner, manager,  
6                             proprietor, employee, volunteer or salesperson.
- 7                   d.     Operation. Any effort to locate, operate, own, lease, supply, allow to be  
8                             operated, or aid, abet or assist in the operation of a Mobile Marijuana  
9                             Dispensary.

10                   Section 4.     PROHIBITION ON MOBILE MARIJUANA DISPENSARIES. Mobile  
11 Marijuana dispensaries are prohibited within all unincorporated areas of Riverside County. No person  
12 shall locate, operate, own, suffer, allow to be operated or aid, abet or assist in the operation of any Mobile  
13 Marijuana Dispensary within the unincorporated areas of Riverside County.

14                   Section 5.     PROHIBITION ON MARIJUANA DELIVERY. No person shall:

- 15                   a.     Deliver marijuana to any location within all unincorporated areas of  
16 Riverside County from a Mobile Marijuana Dispensary, regardless of where  
17 the Mobile Marijuana Dispensary is located, or engage in any operation for  
18 this purpose.
- 19                   b.     Deliver any marijuana-infused project such as tinctures, baked goods, or  
20 other consumable products, to any location within all unincorporated areas  
21 of Riverside County from a Mobile Marijuana Dispensary, regardless of  
22 where the Mobile Marijuana Dispensary is located, or engage in any  
23 operation for this purpose.

24                   Section 6.     PUBLIC NUISANCE DECLARED. Operation of a Mobile Marijuana  
25 Dispensary or delivery of marijuana within the unincorporated areas of Riverside County in violation of  
26 this ordinance is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

27                   Section 7.     VIOLATIONS. The procedures, remedies and penalties for violation of  
28 this ordinance and for recovery of costs related to enforcement are provided for in Ordinance No. 725, as

1 it is amended from time to time, which is incorporated herein by this reference. Notwithstanding any  
2 other provision of the County's ordinances, a violation of this ordinance is not subject to criminal  
3 penalties.

4 Section 8. SEVERABILITY. If any provision, clause, sentence or paragraph of this  
5 ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity  
6 shall not affect the other provisions of this ordinance which can be given effect without the invalid  
7 provision or application, and to this end, the provisions of this ordinance are hereby declared to be  
8 severable.

9 Section 9. EFFECTIVE DATE. This ordinance shall take effect thirty (30) calendar  
10 days after its adoption.

11  
12 BOARD OF SUPERVISORS OF THE COUNTY  
13 OF RIVERSIDE, STATE OF CALIFORNIA

14 By: \_\_\_\_\_

15 Chairman

16 ATTEST:

17 CLERK OF THE BOARD

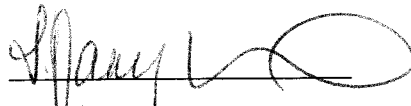
18  
19 By: \_\_\_\_\_

20 Deputy

21  
22 (SEAL)

23 APPROVED AS TO FORM

24  
25 Dec 1, 2015

26  
27 By: 

28 TIFFANY N. NORTH  
Deputy County Counsel

**Riverside County Board of Supervisors  
Request to Speak**

Submit request to Clerk of Board (right of podium),  
Speakers are entitled to three (3) minutes, subject  
to Board Rules listed on the reverse side of this form.

**SPEAKER'S NAME:** Craig Scott

**Address:** 503 S. Calle Palo Fierro  
(only if follow-up mail response requested)

**City:** Palm Springs **Zip:** 92264

**Phone #:** 415 205-9390

**Date:** Dec 8, 2015 **Agenda #** 3-58

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

       **Support**      X **Oppose**             **Neutral**

**Note:** If you are here for an agenda item that is filed  
for "Appeal", please state separately your position on  
the appeal below:

       **Support**             **Oppose**             **Neutral**

**I give my 3 minutes to:** \_\_\_\_\_



## **BOARD RULES**

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### **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

### **Individual Speaker Limits:**

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**SPEAKER'S NAME:** Mark Hanisee

**Address:** C  
(only if follow-up mail response requested)

**City:** Riv **Zip:** 92506

**Phone #:** 951.784-7396

**Date:** 12/8/15 **Agenda #** 3-58  
3-358

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

       **Support** ✓ **Oppose**        **Neutral**

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       **Support**        **Oppose**        **Neutral**

**I give my 3 minutes to:** \_\_\_\_\_



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**SPEAKER'S NAME:** Paula Hanisee

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

**City:** RIVERSIDE **Zip:** 92506

**Phone #:** \_\_\_\_\_

**Date:** 12-8-2015 **Agenda #** 3-58  
3-358

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

\_\_\_\_\_ **Support**    ☒ **Oppose**    \_\_\_\_\_ **Neutral**

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for "Appeal", please state separately your position on  
the appeal below:

\_\_\_\_\_ **Support**    \_\_\_\_\_ **Oppose**    \_\_\_\_\_ **Neutral**

**I give my 3 minutes to:** ~~Bernice~~ GUNN Husband  
Mark Hanisee



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**SPEAKER'S NAME:** William Gunn

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

**City:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_

**Date:** 12-8-15 **Agenda #** 3-58

**PLEASE STATE YOUR POSITION BELOW:**

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**SPEAKER'S NAME:**

B GUND

**Address:**

(only if follow-up mail response requested)

**City:**

Riverside

**Zip:**

**Phone #:**

**Date:**

12/8

**Agenda #**

358

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

Support

✓ **Oppose**

Neutral

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the appeal below:

Support

Oppose

Neutral

**I give my 3 minutes to:**



## **BOARD RULES**

### **Requests to Address Board on "Agenda" Items:**

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

### **Requests to Address Board on items that are "NOT" on the Agenda:**

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

### **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

### **Individual Speaker Limits:**

**Individual speakers are limited to a maximum of three (3) minutes.** Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. ***Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.***

### **Group/Organized Presentations:**

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

### **Addressing the Board & Acknowledgement by Chairman:**

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman may result in removal from the Board Chambers by Sheriff Deputies.



**Riverside County Board of Supervisors  
Request to Speak**

Submit request to Clerk of Board (right of podium),  
Speakers are entitled to three (3) minutes, subject  
to Board Rules listed on the reverse side of this form.

0 **SPEAKER'S NAME:** DONNA WALLING

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

**City:** Riverside **Zip:** 92509

**Phone #:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Agenda #** 3-58

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

\_\_\_\_\_ **Support**    ☒ **Oppose**    \_\_\_\_\_ **Neutral**

**Note:** If you are here for an agenda item that is filed  
for "Appeal", please state separately your position on  
the appeal below:

\_\_\_\_\_ **Support**    \_\_\_\_\_ **Oppose**    \_\_\_\_\_ **Neutral**

**I give my 3 minutes to:** 3-58



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