

MINUTES OF THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



1-1

On motion of Supervisor Tavaglione, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED, FOUND AND DETERMINED that the following ordinances were duly published:

<u>ORDINANCE</u>	<u>DATE</u>	<u>NEWSPAPER</u>
No. 925.1	September 21, 2017	The Press-Enterprise

Roll Call:

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley  
Nays: None  
Absent: None

I hereby certify that the foregoing is a full, true and correct copy of an order made and entered on January 30, 2018 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors  
Dated: January 30, 2018  
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in and  
for the County of Riverside, State of California.

(seal)

By:  \_\_\_\_\_, Deputy

AGENDA NO.

14

ATTACHMENTS FILED WITH  
THE CLERK OF THE BOARD

# THE PRESS-ENTERPRISE

1825 Chicago Ave, Suite 100  
Riverside, CA 92507  
951-684-1200  
951-368-9018 FAX

**PROOF OF PUBLICATION  
(2010, 2015.5 C.C.P)**

Publication(s): The Press-Enterprise

PROOF OF PUBLICATION OF

Ad Desc.: Adoption of Ord. No. 925.1 /

I am a citizen of the United States. I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper in general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673, under date of August 25, 1995, Case Number 267864, and under date of September 16, 2013, Case Number RIC 1309013; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

09/21/2017

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date: September 21, 2017  
At: Riverside, California

Legal Advertising Representative, The Press-Enterprise

BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE  
PO BOX 1147  
RIVERSIDE, CA 92502

Ad Number: 0011011565-01

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2017 SEP 27 AM 11:18

Ad Copy:

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

**ORDINANCE NO. 925.1**  
AN ORDINANCE OF THE COUNTY OF RIVERSIDE  
AMENDING ORDINANCE NO. 925 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. The title of Ordinance No. 925 is amended to read as follows:

**"ORDINANCE NO. 925  
AN ORDINANCE OF THE COUNTY OF RIVERSIDE  
PROHIBITING CANNABIS CULTIVATION  
AND DECLARING CANNABIS CULTIVATION TO BE A NUISANCE"**

- Section 2. Section 1. of Ordinance No. 925 is amended to read as follows:  
"Section 1. FINDINGS AND PURPOSE. The Board of Supervisors finds and declares the following:
- 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").
  - 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."
  - 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 "[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances.
  - 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 CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land..." Additionally, in *Maral v. City of Live Oak* (2013) 221 Cal. App. 4th 975, the Court of Appeal held that "there is no right - and certainly no constitutional right - to cultivate medical marijuana..." The Court in *Maral* affirmed the ability of a local governmental entity to prohibit the cultivation of marijuana under its land use authority.
  - In 2015, the Legislature enacted the Medical Marijuana Regulation and Safety Act ("MMRSA") (Assembly Bills 243 and 266, Senate Bill 643) which created a licensing and regulatory framework for medical marijuana in California and enabled local governments to implement additional standards to permit, regulate, or ban medical marijuana businesses and marijuana activities within their jurisdictions. The MMRSA contained a dual licensing structure that required applicants seeking medical marijuana business licenses to obtain both a state license and a local license. If the local government does not allow medical marijuana businesses and marijuana activities in its jurisdiction, the applicant cannot obtain a state license.
  - In 2016, Senate Bill 837 changed MMRSA's name to the Medical Cannabis Regulation and Safety Act ("MCRSA").
  - On November 8, 2016, Californians approved Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which legalized recreational use (adult-use) of marijuana for adults ages 21 and over. Under state law, adults may now use, possess, process, transport or give away 28.5 grams of marijuana or 8 grams of concentrated cannabis. The AUMA further allows adults to cultivate six plants inside a private residence or within a locked area on the grounds of the private residence. No more than six marijuana plants may be cultivated per private residence, no matter how many people live there.
  - On June 27, 2017, the Governor signed Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA unifies both the medical regulatory scheme and the adult-use scheme to achieve a single regulatory structure at the state level. The MAUCRSA shifts from the term "marijuana" to "cannabis." The MAUCRSA continues to recognize local control and the state cannot approve licenses for cannabis businesses and cannabis activities if the license would not be in compliance with a local government's ordinances or regulations. As with the AUMA, local governments must allow cultivation of six plants inside a private residence or inside a fully enclosed and secure accessory structure to a private residence. The MAUCRSA continues to recognize the ability of local governments to prohibit all outdoor cultivation and any other cannabis businesses and cannabis activities. The MAUCRSA makes clear that nothing in the MAUCRSA is to be interpreted to supersede or limit the County's authority to adopt and enforce local ordinances to regulate cannabis businesses and cannabis activities licensed by the state, up to and including the County's right to prohibit the activity.
  - 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 Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.
  - Cannabis cultivation in the unincorporated area of Riverside County can adversely affect the health, safety, and well-being of County residents. Countywide prohibition of cannabis 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 cannabis cultivation, and that are especially significant if the amount of cannabis cultivated on a single premises is not regulated and substantial amounts of cannabis are thereby allowed to be concentrated in one place.
  - Cannabis cultivation at locations or premises within one thousand feet of schools, parks, and community centers creates unique risks that the cannabis plants may be observed by minors, and therefore be especially vulnerable to theft or recreational consumption by minors. Further, the potential for criminal activities associated with cannabis cultivation in such locations poses heightened risks that minors will be involved or endangered. Therefore, any amount of cannabis cultivation in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the cannabis plants.
  - Except for personal cannabis cultivation as provided in subsection b. of Section 4. of this ordinance, all cannabis cultivation is prohibited upon any premises within all unincorporated areas of Riverside County.
  - The County is committed to making efficient and rational use of its limited investigative and prosecutorial resources. There shall be a limited exemption from enforcement for violations of this ordinance by primary caregivers and qualified patients for small amounts of cannabis cultivation for their own medical use in zone classifications identified section 3.4

of Ordinance No. 348 when all of the conditions and standards in section 12 of this ordinance are met."

- Section 3. Section 2. of Ordinance No. 925 is amended to read as follows:  
"Section 2. AUTHORITY. This ordinance is adopted pursuant to the authority granted by Article XI, section 7 of the California Constitution, Business and Professions Code section 26200, Health and Safety Code section 11362.83, and Government Code sections 25845 and 53069.4."
- Section 4. New subsections b., c., and d. are added to Section 3. of Ordinance No. 925 to read as follows:  
"b. Cannabis. All parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or already harvested, including the seeds thereof. "Cannabis" also means cannabis as defined by Business and Professions Code section 26001 and Health and Safety Code section 11018. "Cannabis" does not mean "industrial hemp" as defined by Food and Agricultural Code section 81100 or Health and Safety Code section 11018.5. For the purpose of this ordinance, cannabis is not a crop.  
c. Cannabis Cultivation. The planting, growing, harvesting, drying, curing, grading, trimming, or storage of one or more cannabis plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.  
d. Cannabis Plant. Any mature or immature cannabis plant, or any cannabis seedling."
- Section 5. Existing subsections b., c., d., e. and f. of Section 3. of Ordinance No. 925 are relettered subsections e., f., g., h., and i., respectively.
- Section 6. Existing subsection g. of Section 3. of Ordinance No. 925 is relettered subsection i. and amended to read as follows:  
"i. Marijuana. Cannabis."
- Section 7. Existing subsection h. of Section 3. is repealed in its entirety.
- Section 8. Existing subsections i., j., k., l., m., n., o., p., q., and r. of Section 3. of Ordinance No. 925 are relettered subsections k., l., m., n., o., p., q., r., s. and t., respectively.
- Section 9. Section 4. of Ordinance No. 925 is amended to read as follows:  
"Section 4. PROHIBITIONS ON CANNABIS CULTIVATION. NUISANCE DECLARED.  
a. Cannabis cultivation, either indoors or outdoors, fixed or mobile, upon any premises within all unincorporated areas of Riverside County is prohibited and hereby declared to be unlawful and a public nuisance that may be abated in accordance with this ordinance. The foregoing prohibition shall be imposed regardless of the number of qualified patients or primary caregivers residing at the premises or participating directly or indirectly in the cultivation. Further, this prohibition shall be imposed notwithstanding any assertion that the person(s) cultivating cannabis are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating cannabis.  
b. The prohibition in this section shall not prohibit a person 21 years of age or older from engaging in the indoor cannabis cultivation of six or fewer live cannabis plants within a single private residence or inside a detached accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by Health and Safety Code sections 11362.1 and 11362.2. In no event shall more than six live cannabis plants be allowed per private residence under this subsection, regardless of the number of persons 21 years of age or older living at the private residence. For the purposes of this subsection, private residence means a one family dwelling, apartment unit, mobile home or other similar dwelling."
- Section 10. The term "marijuana" is replaced with the term "cannabis" wherever the term "marijuana" is used in Section 5. through Section 25. in Ordinance No. 925.
- Section 11. EFFECTIVE DATE. This ordinance shall take effect thirty (30) calendar days after its adoption.

John Tavaglione, Chairman of the Board

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 eleven (11) sections was adopted by said Board by the following vote:

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

Kecia Harper-Ihem, Clerk of the Board  
By: Cecilia Gil, Board Assistant

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