

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

108A



FROM: TLMA and County Counsel

SUBMITTAL DATE:
May 20, 2015

SUBJECT: Adoption of Ordinance No. 925 Prohibiting Marijuana Cultivation and Declaring Marijuana Cultivation to be a Public Nuisance [All Districts - \$0] –CEQA EXEMPT

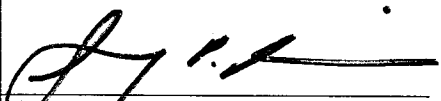
RECOMMENDED MOTION: That the Board of Supervisors adopt Ordinance No. 925, an ordinance of the County of Riverside prohibiting marijuana cultivation and declaring marijuana cultivation to be a public nuisance.


BACKGROUND:

Summary

On May 19, 2015, the Board held a public hearing regarding two related ordinances prohibiting marijuana cultivation. At the conclusion of the public testimony, the Board closed the public hearing and did the following: (1) found Ordinance Nos. 348.4802 and 925 are not a project under CEQA per CEQA Guidelines sections 15060(c)(3) and 15378 and are otherwise exempt from CEQA pursuant to CEQA Guidelines sections 15060(c)(2), 15061(b)(3) and 15308; (2) adopted Ordinance No. 348.4802, an ordinance of the County of Riverside amending Ordinance No. 348 related to zoning; and (3) introduced Ordinance No. 925, an ordinance of the County of Riverside prohibiting marijuana cultivation and declaring marijuana cultivation to be a public nuisance.

Departmental Concurrence


Gregory P. Priamos
County Counsel


Juan C. Perez, Director
Transportation and Land
Management

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	

SOURCE OF FUNDS:	Budget Adjustment: N/A
	For Fiscal Year: N/A

C.E.O. RECOMMENDATION:

APPROVE

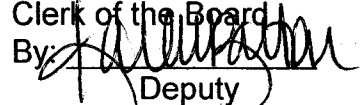
BY: 
Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Ashley and duly carried,
IT WAS ORDERED that the above Ordinance 925 is adopted with waiver of the reading.

Ayes: Jeffries, Washington, Benoit and Ashley
Nays: None
Absent: Tavaglione
Date: June 2, 2015
xc: TLMA, Co.Co., Recorder, MC, COB

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. Ref.: 16-2 of 5/19/15 | District: ALL | Agenda Number:

3-26

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

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

FORM 11: Adoption of Ordinance No. 925 Prohibiting Marijuana Cultivation and Declaring Marijuana Cultivation to be a Public Nuisance [All Districts - \$0] –CEQA EXEMPT

DATE: May 20, 2015

PAGE: Page 2 of 2

BACKGROUND:

Summary

The Board's adoption of Ordinance No. 925 will finalize the Board's approval of the marijuana cultivation prohibition countywide.

Ordinance No. 925 declares 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 on November 25, 2014 (agenda item 3-1), Ordinance No. 925 states that the County is committed to making efficient and rational use of its limited investigative and prosecutorial resources and that there shall be 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 the standards and conditions set forth in Section 12 of Ordinance No. 925 are met.

Ordinance No. 925 also contains sections regarding abatement of unlawful marijuana cultivation and appeals hearings, summary abatements, recovery of abatement costs and attorneys' fees, authorization for the placement of special assessments and liens, treble damages, administrative civil penalties of up to \$1000 per day, misdemeanor penalties, and enforcement by civil actions.

As advised in earlier agenda items on this subject, Ordinance No. 925 is not intended as, and should not be construed as, a legalization of marijuana under any circumstances but is an attempt to prioritize the County's civil abatement, prosecutorial and public safety resources with regard to marijuana cultivation. Under no circumstances will the County issue any types of land use permits or entitlements authorizing marijuana cultivation.

Impact on Citizens and Businesses

The proliferation of large-scale marijuana cultivation increases the risk of criminal activity, degradation of the natural environment and often results in illegal electrical and water connections and alterations. Large-scale marijuana cultivation also creates increased nuisance impacts to neighboring properties. The purpose of Ordinance Nos. 348.4802 and 925 are to provide for greater enforcement against large-scale marijuana cultivation with the goal of improving community livability and protecting public health, safety and welfare, while also recognizing a limited enforcement exemption for small amounts of marijuana cultivated for medical uses by registered medical marijuana patients. While the enforcement of these ordinances may result in increased unknown departmental costs, recovery of abatements costs are authorized under Ordinance No. 925 including the placement of special assessments and liens for recovery of such costs.

SUPPLEMENTAL:

Additional Fiscal Information

N/A

Attachments:

1. Ordinance No. 925

Original

ORDINANCE NO. 925

AN ORDINANCE OF THE COUNTY OF RIVERSIDE

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. FINDINGS AND PURPOSE. The Board of Supervisors finds and declares the following:

- a. 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").
- b. 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."
- c. 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

1 “[a]dopt local ordinances that regulate the location, operation, or
2 establishment of a medical marijuana cooperative or collective” and to
3 civilly and criminally enforce such ordinances.

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

13 e. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies
14 marijuana as a Schedule I Drug, which is defined as a drug or other
15 substance that has a high potential for abuse, that has no currently accepted
16 medical use in treatment in the United States, and that has not been
17 accepted as safe for use under medical supervision. The Federal Controlled
18 Substances Act makes it unlawful, under federal law, for any person to
19 cultivate, manufacture, distribute or dispense, or possess with intent to
20 manufacture, distribute or dispense, marijuana. The Federal Controlled
21 Substances Act contains no exemption for the cultivation, manufacture,
22 distribution, dispensation, or possession of marijuana for medical purposes.

23 f. Marijuana cultivation in the unincorporated area of Riverside County can
24 adversely affect the health, safety, and well-being of County residents.
25 Countywide prohibition of marijuana cultivation is proper and necessary to
26 avoid the risks of criminal activity, degradation of the natural environment,
27 malodorous smells, and indoor electrical fire hazards that may result from
28 unregulated marijuana cultivation, and that are especially significant if the

1 amount of marijuana cultivated on a single premises is not regulated and
2 substantial amounts of marijuana are thereby allowed to be concentrated in
3 one place.

4 g. Marijuana cultivation at locations or premises within one thousand feet of
5 schools, parks, and community centers creates unique risks that the
6 marijuana plants may be observed by minors, and therefore be especially
7 vulnerable to theft or recreational consumption by minors. Further, the
8 potential for criminal activities associated with marijuana cultivation in
9 such locations poses heightened risks that minors will be involved or
10 endangered. Therefore, any amount of marijuana cultivation in such
11 locations or premises is especially hazardous to public safety and welfare,
12 and to the protection of children and the person(s) cultivating the marijuana
13 plants.

14 h. As recognized by the Attorney General's August 2008 Guidelines for the
15 Security and Non-Diversion of Marijuana Grown for Medical Use,
16 marijuana cultivation or other concentration of marijuana in any location or
17 premises without adequate security increases the risk that surrounding
18 homes or businesses may be negatively impacted by nuisance activity such
19 as loitering or crime.

20 i. The limited immunity from specified state marijuana laws provided by the
21 Compassionate Use Act and Medical Marijuana Program does not confer a
22 land use right or the right to create or maintain a public nuisance.

23 j. The County is committed to making efficient and rational use of its limited
24 investigative and prosecutorial resources. There shall be a limited
25 exemption from enforcement for violations of this ordinance by primary
26 caregivers and qualified patients for small amounts of marijuana cultivation
27 for their own medical use in zone classifications identified section 3.4 of
28 Ordinance No. 348 when all of the conditions and standards in section 12 of

1 this ordinance are met.

2 Section 2. AUTHORITY. This ordinance is adopted pursuant to the authority granted
3 by Article XI, section 7 of the California Constitution, Health and Safety Code section 11362.83, and
4 Government Code sections 25845 and 53069.4.

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

- 7 a. Abatement Costs. Any costs or expenses, including County staff time
8 reasonably related to the abatement of conditions which violate this
9 ordinance, and shall include, but not be limited to, enforcement,
10 investigation, summaries, reports, notices, telephonic contact,
11 correspondence, mailing expense, title search costs, administrative costs
12 including scheduling and participation at hearings and meetings, Hearing
13 Officer costs, expenses incurred by the County, court costs, civil or
14 administrative penalties, collection, reasonable attorneys' fees, and other
15 costs associated with the removal, abatement or correction of a violation.
- 16 b. Child Care Center. Any licensed child care center, daycare center, child
17 care home, or any preschool.
- 18 c. Church. A structure or leased portion of a structure, which is used primarily
19 for religious worship and related religious activities.
- 20 d. Community Center. Any facility open to the public at which classes,
21 social activities, recreational activities, educational activities, support and
22 public information are offered for all residents of the community.
- 23 e. Enforcement Officer. The Sheriff, the Transportation and Land
24 Management Agency Director, Building Official, Code Enforcement
25 Official, County Counsel, Environmental Health Department Director,
26 Public Health Officer, Agricultural Commissioner, Fire Chief, Clerk of the
27 Board of Supervisors, and their designees.
- 28 f. Family. One or more non-transient, related or unrelated persons living

1 together as a single, nonprofit housekeeping unit.

2 g. Marijuana Cultivation. The planting, growing, harvesting, drying,
3 processing, or storage of one or more marijuana plants or any part thereof in
4 any location, indoor or outdoor, including from within a fully enclosed and
5 secure building.

6 h. Marijuana plant. Any mature or immature marijuana plant, or any
7 marijuana seedling.

8 i. Minor. A person under eighteen (18) years of age.

9 j. Multiple-Family Dwelling. A building or portion thereof used to house two
10 or more families, including domestic employees of each such family, living
11 independently of each other, and each having their own kitchen.

12 k. One-Family Dwelling. A building or detached structure, including a
13 mobilehome or manufactured home, containing one kitchen and used to
14 house not more than one family, including domestic employees.

15 l. Park. A public playground, public recreation center or area, and other
16 public areas, created, established, designated, maintained, provided or set
17 aside by the County, any city, or any other public entity or agency, for the
18 purposes of public rest, play, recreation, enjoyment or assembly, and all
19 buildings and structures located thereon or therein.

20 m. Premises. A single parcel of property. Where contiguous parcels are under
21 common ownership or control, such contiguous parcels shall be counted as
22 a single "premises" for purposes of this ordinance.

23 n. Primary Caregiver. Shall have the meaning set forth in Health and Safety
24 Code sections 11362.5 and 11362.7 et seq.

25 o. Qualified Patient. Shall have the meaning set forth in Health and Safety
26 Code sections 11362.5 and 11362.7 et seq.

27 p. Responsible Party. (1) Each person committing the violation or causing a
28 condition on a premises located within the jurisdiction of the County of

1 Riverside which violates this ordinance; (2) each person who has an
2 ownership interest in that premises; or (3) each person who, although not an
3 owner, nevertheless occupies or has a legal right or a legal obligation to
4 exercise possession or control over that premises. In the event the person
5 who commits the violation or causes the violating condition is a minor, then
6 the minor's parents or legal guardian shall be deemed the responsible party.
7 In the event the violation or violating condition is most reasonably
8 attributable to a business, then that business, to the extent it is a legal entity
9 such that it can sue and be sued in its own name, and each person who is an
10 owner of that business shall be deemed responsible parties.

11 q. School. An institution of learning for minors, whether public or private,
12 offering a regular course of instruction required by the California Education
13 Code. This definition includes a nursery school, kindergarten, elementary
14 school, middle or junior high school, senior high school, or any special
15 institution of education, but it does not include a home school, vocational or
16 professional institution of higher education, including a community or
17 junior college, college, or university.

18 r. Youth-oriented Facility. Any facility that caters to or provides services
19 primarily intended for minors, or the individuals who regularly patronize,
20 congregate or assemble at the establishment are predominantly minors.

21 Section 4. PROHIBITIONS ON MARIJUANA CULTIVATION. NUISANCE
22 DECLARED. Marijuana cultivation, either indoors or outdoors, fixed or mobile, upon any premises
23 within all unincorporated areas of Riverside County is prohibited and hereby declared to be unlawful and
24 a public nuisance that may be abated in accordance with this ordinance. The foregoing prohibition shall
25 be imposed regardless of the number of qualified patients or primary caregivers residing at the premises
26 or participating directly or indirectly in the cultivation. Further, this prohibition shall be imposed
27 notwithstanding any assertion that the person(s) cultivating marijuana are the primary caregiver(s) for
28 qualified patients or that such person(s) are collectively or cooperatively cultivating marijuana.

1 Section 5. NOTICE TO ABATE UNLAWFUL MARIJUANA CULTIVATION.

2 Whenever the enforcement officer determines that a public nuisance as described in this ordinance exists
3 on any premises within the unincorporated area of Riverside County, he or she is authorized to notify the
4 owner of the premises and any other responsible party, through issuance of a "Notice to Abate Unlawful
5 Marijuana Cultivation."

6 Section 6. CONTENTS OF NOTICE. The Notice to Abate Unlawful Marijuana
7 Cultivation set forth in section 5 of this ordinance shall be in writing and shall:

- 8 a. Identify the owner(s) of the premises upon which the nuisance exists, as
9 named in the last County Equalized Assessment Roll, and identify any
10 other responsible party, if other than the owner(s), and if known or
11 reasonably identifiable.
- 12 b. Describe the location of such premises by its commonly used street address,
13 giving the name or number of the street, road or highway and the number, if
14 any.
- 15 c. Identify such premises by reference to the assessor's parcel number.
- 16 d. Contain a statement that unlawful marijuana cultivation exists on the
17 premises and that it has been determined by the enforcement officer to be a
18 public nuisance described in this ordinance.
- 19 e. Describe the unlawful marijuana cultivation that exists and the actions
20 required to abate it.
- 21 f. Contain a statement that the owner or responsible party is required to
22 abate the unlawful marijuana cultivation within ten (10) calendar days
23 after the date that said notice was served.
- 24 g. Contain a statement that the owner or responsible party may, within ten
25 (10) calendar days after the date that said Notice to Abate Unlawful
26 Marijuana Cultivation was served, make a request in writing to the
27 County Department that issued the notice for a hearing to appeal the
28

1 determination of the enforcement officer that the conditions existing
2 constitute a public nuisance, or to show other cause why those conditions
3 should not be abated in accordance with the provisions of this ordinance.

4 h. Contain a statement that, unless the owner or responsible party abates the
5 unlawful marijuana cultivation within the time prescribed in the Notice to
6 Abate Unlawful Marijuana Cultivation, the enforcement officer shall abate
7 the nuisance. It shall also state that the abatement costs may result in the
8 imposition of a lien and special tax assessment against the premises for
9 abatement costs related to enforcement of the this ordinance and abatement
10 of the violative conditions.

11 i. The failure of the Notice to Abate Unlawful Marijuana Cultivation to set
12 forth all required contents shall not affect the validity of the proceedings.

13 Section 7. SERVICE OF NOTICE. Unless otherwise specifically provided for in any
14 other section of this ordinance, notices shall be issued in the following manner:

15 a. Notices required pursuant to this ordinance may be served in any of the
16 following methods:

- 17 1. Personal service; or
- 18 2. By posting a copy of the notice in a visible place on the premises
19 and mailing a copy to the premises owner as such person's name and
20 address appears on the last County Equalized Assessment Roll. If notice
21 is mailed to a responsible party other than the premises owner then the
22 notice may be mailed to the last known address. If the address of any
23 such person is unknown, that fact shall be stated in the copy so mailed
24 and it shall be addressed to the person at the county seat. Service shall
25 be deemed complete five (5) calendar days after the date of deposit in
26 the mail or five (5) calendar days after the date of posting, whichever is
27 later.

- 1 b. The failure of any premises owner or any other responsible party to
2 receive such notice shall not affect the validity of the abatement
3 proceedings.

4 Section 8. APPEAL HEARING BY COUNTY HEARING OFFICER.

- 5 a. Any person upon whom a Notice to Abate Unlawful Marijuana
6 Cultivation has been served may appeal the determination of the
7 enforcement officer that the conditions set forth in the notice constitute a
8 public nuisance, or may show cause why those conditions should not be
9 abated in accordance with the provisions of this ordinance.
- 10 b. Any such appeal shall be commenced by filing a written request for a
11 hearing with the County Department that issued the Notice to Abate
12 Unlawful Marijuana Cultivation within ten (10) calendar days after the
13 date that said Notice was served. The written request shall include a
14 statement of all facts supporting the appeal. The time requirement for
15 filing such a written request shall be deemed jurisdictional and may not
16 be waived. In the absence of a timely filed written request that complies
17 fully with the requirements of this section, the findings of the
18 enforcement officer contained in the Notice to Abate Unlawful Marijuana
19 Cultivation shall become final and conclusive on the eleventh day
20 following service of the notice.
- 21 c. Upon timely receipt of a written request for hearing which complies with
22 the requirements of this section, a hearing shall be set for a date not less
23 than ten (10) calendar days, nor more than thirty (30) calendar days, from
24 the date the request was filed. Written notice of the hearing shall be sent to
25 the requesting party, to any other parties upon whom the Notice to Abate
26 Unlawful Marijuana Cultivation was served, and to the enforcement
27 officer.

- 1 d. The Board of Supervisors delegates its authority to conduct the hearing to
2 the County Hearing Officer appointed by the Board of Supervisors
3 pursuant to Ordinance No. 643 and Government Code section 27720.
- 4 e. The County Hearing Officer shall have full authority and duty to preside
5 over the hearing in the manner set forth in Ordinance No. 643.
- 6 f. At the time fixed in the notice of hearing, the County Hearing Officer shall
7 receive evidence from the enforcement officer and the owner of the
8 premises, any other responsible party, or their representatives and any other
9 concerned persons who may desire to present oral or documentary evidence
10 regarding the conditions of the premises or other relevant matter, if such
11 persons are present at the hearing. In conducting the hearing, the County
12 Hearing Officer shall not be limited by the technical rules of evidence.
13 Failure of the owner or responsible party to appear shall not affect the
14 validity of the proceedings or order issued thereon.
- 15 g. Upon conclusion of the hearing, the County Hearing Officer shall make his
16 decision and in the event it so concludes, may declare the conditions on the
17 premises to be in violation of this ordinance and to constitute a public
18 nuisance. The County Hearing Officer may direct the owner or responsible
19 party to abate the unlawful marijuana cultivation within ten (10) calendar
20 days after mailing and posting of the County Hearing Officer's decision.
21 The County Hearing Officer's decision shall include notice that if the
22 unlawful marijuana cultivation is not abated as directed and within ten (10)
23 calendar days, the enforcement officer may abate the unlawful marijuana
24 cultivation and the abatement costs shall be a lien and an assessment against
25 the premises. Such decision shall be mailed to, or personally served upon,
26 the party requesting the hearing, any other parties upon whom the Notice to
27 Abate Unlawful Marijuana Cultivation was served, and the enforcement
28 officer.

1 h. The County Hearing Officer may continue the administrative hearing from
2 time to time.

3 i. At the conclusion of the hearing, the County Hearing Officer shall submit
4 his decision and the record to the Clerk of the Board.

5 j. The decision of the County Hearing Officer shall be final and conclusive.

6 Section 9. ABATEMENT BY OWNER OR RESPONSIBLE PARTY. Any owner or
7 responsible party may abate the unlawful marijuana cultivation or cause it to be abated at any time prior to
8 commencement of abatement by, or at the direction of, the enforcement officer.

9 Section 10. SUMMARY ABATEMENT. Notwithstanding any other provision of this
10 ordinance, when any unlawful marijuana cultivation constitutes an immediate threat to public health or
11 safety, and when the procedures set forth in sections 5 through 8 of this ordinance will not result in
12 abatement of that nuisance within a short enough time period to avoid that threat, the enforcement officer
13 may direct any officer or employee of the County to summarily abate the nuisance by removing and
14 destroying the marijuana plants. The enforcement officer shall make reasonable efforts to notify the
15 owner of the premises and any other responsible party, but the formal notice and hearing procedures set
16 forth in this ordinance shall not apply. The County may nevertheless recover its abatement costs for
17 abating that nuisance in the manner set forth in this ordinance.

18 Section 11. ENFORCEMENT. Whenever the enforcement officer becomes aware that
19 an owner of the premises or any other responsible party has failed to abate any unlawful marijuana
20 cultivation within ten (10) calendar days of the date of service of the Notice to Abate Unlawful Marijuana
21 Cultivation, unless timely appealed, or of the date of the County Hearing Officer's decision requiring such
22 abatement, the enforcement officer may take one or more of the following actions:

23 a. Enter upon the premises and abate the nuisance by County personnel, or by
24 private contractor under the direction of the enforcement officer. The
25 enforcement officer may apply to a court of competent jurisdiction for a
26 warrant authorizing entry upon the premises for purposes of undertaking the
27 nuisance abatement work by removing and destroying the marijuana plants,
28 including any fixtures and other moveable property and equipment used for

1 marijuana cultivation, if necessary.

- 2 b. Request that the County Counsel commence a civil action to redress, enjoin,
3 and abate the public nuisance.

4 Section 12. LIMITED EXEMPTION FROM ENFORCEMENT.

- 5 a. The County is committed to making efficient and rational use of its limited
6 investigative and prosecutorial resources. There shall be a limited
7 exemption from enforcement for violations of this ordinance by primary
8 caregivers and qualified patients for small amounts of marijuana cultivation
9 for their own medical use in zone classifications identified section 3.4 of
10 Ordinance No. 348 when all of the following conditions and standards are
11 complied with:

- 12 1. The premises shall contain a legally permitted one-family dwelling.
- 13 2. Cultivation of no more than twelve (12) marijuana plants per
14 qualified patient. In the event a qualified patient has a primary
15 caregiver cultivating marijuana plants for the qualified patient, only
16 one primary caregiver may cultivate no more than twelve (12)
17 marijuana plants for that qualified patient at any one time. In no
18 circumstances shall a qualified patient have multiple primary
19 caregivers cultivating marijuana plants for the qualified patient at
20 the same time.
- 21 3. Two (2) qualified patient limit to aggregate marijuana plant count
22 for a maximum total of twenty-four (24) marijuana plants per
23 premises.
- 24 4. At least one qualified patient or one primary caregiver must live on
25 the premises.
- 26 5. All marijuana plants must be reasonably secured to prevent access
27 by minors or theft, to a standard satisfactory to the enforcement
28 officer.

- 1 6. All marijuana cultivation outside of any building must be fully
2 enclosed by an opaque fence at least six feet in height. The fence
3 must be adequately secure to prevent unauthorized entry. Bushes,
4 hedgerows, plastic sheeting, tarps, or cloth material shall not
5 constitute an adequate fence under this subsection. Premises larger
6 than five (5) acres are exempt from this fencing provision so long as
7 all other standards and conditions of subsection a. of this section are
8 complied with and any barriers used are otherwise consistent with
9 Ordinance No. 457 and Ordinance No. 348.
- 10 7. Each building or outdoor area in which the marijuana plants are
11 cultivated shall be set back at least ten (10) feet from all boundaries
12 of the premises. Such setback distance shall be measured in a
13 straight line from the building in which the marijuana plants are
14 cultivated, or, if the marijuana plants are cultivated in an outdoor
15 area, from the fence required by subsection 6. to the boundary line
16 of the premises.
- 17 8. The designated marijuana cultivation area must not be visible from
18 any public right-of-way.
- 19 9. If the person cultivating marijuana plants on any premises is not the
20 owner of the premises, such person shall submit a letter from the
21 owner(s) consenting to the marijuana cultivation on the parcel. This
22 letter shall be examined by the enforcement officer, and shall then
23 be returned to the submitter. The County shall prescribe forms for
24 such letters.
- 25 10. Parolees or probationers shall not live on the premises unless the
26 parolees or probationers have received confirmation from the court
27 that he is allowed to use medical marijuana while on parole or
28 probation pursuant to Health & Safety Code section 11362.795

1 which shall be subject to verification by the enforcement officer.

2 11. Qualified patients for whom the marijuana plants are being
3 cultivated shall have valid Medical Marijuana Identification Cards
4 issued by the Riverside County Department of Public Health. Any
5 primary caregiver cultivating marijuana plants for a qualified patient
6 shall have a copy of the qualified patient's valid Medical Marijuana
7 Identification Card issued by the Riverside County Department of
8 Public Health which shall be kept on the premises.

9 12. The address for the premises must be posted and plainly visible from
10 the public right-of-way.

11 13. The marijuana cultivation shall not be within a multi-dwelling
12 building.

13 14. The marijuana cultivation shall not be upon any premises located
14 within one thousand (1,000) feet of any school, community center,
15 or park.

16 15. The marijuana cultivation shall not be upon any premises containing
17 a child care center, church, or youth-oriented facility.

18 b. Any marijuana cultivation that does not comply with all of the standards
19 and conditions in subsection a. of this section is subject to nuisance
20 abatement enforcement and administrative civil penalties as set forth in this
21 ordinance.

22 Section 13. RECOVERY OF ABATEMENT COSTS AND ATTORNEYS' FEES.

23 a. In any enforcement action brought pursuant to this ordinance, whether by
24 administrative proceedings, judicial proceedings, or summary abatement,
25 each person who causes, permits, suffers, or maintains the unlawful
26 marijuana cultivation to exist shall be liable for all abatement costs incurred
27 by the County, and any and all costs incurred to undertake, or to cause or
28 compel any responsible party to undertake, any abatement action in

1 compliance with the requirements of this ordinance, whether those costs are
2 incurred prior to, during, or following enactment of this ordinance.

- 3 b. In any action by the enforcement officer to abate unlawful marijuana
4 cultivation under this ordinance, whether by administrative proceedings,
5 judicial proceedings, or summary abatement, the prevailing party shall be
6 entitled to a recovery of the reasonable attorneys' fees incurred. Recovery
7 of attorneys' fees under this subdivision shall be limited to those actions or
8 proceedings in which the County elects, at the initiation of that action or
9 proceeding, to seek recovery of its own attorneys' fees. In no action,
10 administrative proceeding, or special proceeding shall an award of
11 attorneys' fees to a prevailing party exceed the amount of reasonable
12 attorneys' fees incurred by the County in the action or proceeding.

13 Section 14. NOTICE OF ABATEMENT COSTS. At the conclusion of the abatement, the
14 enforcement officer shall issue a bill setting forth the abatement costs to the owner of the premises and
15 any other responsible party. The bill shall demand payment to the County of the total abatement costs
16 within fifteen (15) calendar days of its mailing.

17 Section 15. SPECIAL ASSESSMENT AND LIEN.

- 18 a. If the owner fails to pay the abatement costs upon demand by the County,
19 the Board of Supervisors may order the abatement costs to be specially
20 assessed against the premises under Government Code section 25845. The
21 assessment may be collected at the same time and in the same manner as
22 ordinary county taxes are collected, and shall be subject to the same
23 penalties and the same procedure and sale in case of delinquency as are
24 provided for ordinary county taxes. All laws applicable to the levy,
25 collection, and enforcement of county taxes are applicable to the special
26 assessment.

- 27 b. If the Board of Supervisors specially assesses the abatement costs against
28 the premises, the Board of Supervisors also may cause a Notice of

1 Abatement Lien to be recorded. The Notice of Abatement Lien shall, at a
2 minimum, identify the record owner or possessor of the premises, set forth
3 the last known address of the record owner or possessor of the premises, set
4 forth the date upon which abatement of the nuisance was ordered by the
5 County Hearing Officer, the date the abatement was complete, include a
6 description of the premises subject to the lien, and the amount of the
7 abatement cost.

8 Section 16. ADMINISTRATIVE CIVIL PENALTIES.

- 9 a. In addition to any other remedy prescribed in this ordinance, any
10 nuisance as described in this ordinance may be subject to an
11 administrative civil penalty of up to one thousand dollars (\$1000) per
12 day. The administrative civil penalty may be imposed via the
13 administrative process set forth in this section, as provided in
14 Government Code section 53069.4, or may be imposed by the court if the
15 violation requires court enforcement without an administrative process.
- 16 b. Acts, omissions, or conditions in violation of this ordinance that continue,
17 exist, or occur on more than one day constitute separate violations on
18 each day. Violations continuing, existing, or occurring on the service
19 date, the effective date, and each day between the service date and the
20 effective date are separate violations.
- 21 c. In the case of a continuing violation, if the violation does not create an
22 immediate danger to health or safety, the enforcement officer or the court
23 shall provide for a reasonable period of time, not to exceed ten (10) calendar
24 days, for the person responsible for the violation to correct or otherwise
25 remedy the violation prior to the imposition of the administrative civil
26 penalty.
- 27 d. In determining the amount of the administrative civil penalty, the
28 enforcement officer, or the court if the violation requires court enforcement

1 without an administrative process, shall take into consideration the nature,
2 circumstances, extent, and gravity of the violation or violations, any prior
3 history of violations, the degree of culpability, economic savings, if any
4 resulting from the violation, and any other matters justice may require.

- 5 e. The enforcement officer may commence the administrative civil penalty
6 process by issuance of a notice of violation and proposed administrative
7 civil penalty, which shall state the amount of the proposed administrative
8 civil penalty and the reasons therefore. The notice of violation and
9 proposed administrative civil penalty shall inform the recipient of his right
10 to request an appeal hearing in accordance with this section. The notice
11 shall state that if such a hearing is not requested within ten (10) days of
12 issuance of the notice of violation and issuance of the proposed
13 administrative civil penalty, the proposed penalty shall become final and the
14 recipient of thereof shall immediately make payment of the administrative
15 civil penalty to the County. The notice of violation and proposed
16 administrative civil penalty shall also state that if the administrative civil
17 penalty is not timely paid or appealed then additional costs shall be assessed
18 by the enforcement officer to recover administrative costs, including but not
19 limited to costs of obtaining a title report, recording fees, noticing,
20 scheduling and participating in further hearings, collection activities or
21 other costs incurred to recover the administrative civil penalties. The notice
22 of violation and proposed administrative civil penalty may be combined
23 with a Notice to Abate Unlawful Marijuana Cultivation issued pursuant to
24 Section 5. The notice of violation and proposed administrative civil penalty
25 shall be served by mail addressed to all of the following: (i) the owner of
26 the premises on which the violation exists, as named on the last County
27 Equalized Assessment Roll, or as otherwise known to the enforcement
28 officer; (ii) anyone other responsible party, if other than the owner(s), and if