

1 ORDINANCE NO. 925.1

2 AN ORDINANCE OF THE COUNTY OF RIVERSIDE

3 AMENDING ORDINANCE NO. 925 PROHIBITING MARIJUANA CULTIVATION AND

4 DECLARING MARIJUANA CULTIVATION TO BE A NUISANCE

5 The Board of Supervisors of the County of Riverside ordains as follows:

6 Section 1. The title of Ordinance No. 925 is amended to read as follows:

7 “ORDINANCE NO. 925

8 AN ORDINANCE OF THE COUNTY OF RIVERSIDE

9 PROHIBITING CANNABIS CULTIVATION

10 AND DECLARING CANNABIS CULTIVATION TO BE A NUISANCE”

11 Section 2. Section 1. of Ordinance No. 925 is amended to read as follows:

12 “Section 1. FINDINGS AND PURPOSE. The Board of Supervisors finds and  
13 declares the following:

- 14 a. In 1996, the voters of the State of California approved Proposition 215  
15 (codified as California Health and Safety Code section 11362.5, and entitled  
16 “The Compassionate Use Act of 1996”).
- 17 b. The intent of Proposition 215 was to enable persons who are in need of  
18 marijuana for medical purposes to use it without fear of criminal  
19 prosecution under limited, specified circumstances. The proposition further  
20 provides that “nothing in this section shall be construed to supersede  
21 legislation prohibiting persons from engaging in conduct that endangers  
22 others, or to condone the diversion of marijuana for non-medical purposes.”  
23 The ballot arguments supporting Proposition 215 expressly acknowledged  
24 that “Proposition 215 does not allow unlimited quantities of marijuana to be  
25 grown anywhere.”
- 26 c. In 2004, the Legislature enacted Senate Bill 420 (codified as California  
27 Health and Safety Code sections 11362.7 et seq., and referred to as the  
28 “Medical Marijuana Program”) to clarify the scope of Proposition 215, and  
to provide qualifying patients and primary caregivers who collectively or

1 cooperatively cultivate marijuana for medical purposes with a limited  
2 defense to certain specified state criminal statutes. Assembly Bill 2650  
3 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana  
4 Program to expressly recognize the authority of counties and cities  
5 to “[a]dopt local ordinances that regulate the location, operation, or  
6 establishment of a medical marijuana cooperative or collective” and to  
7 civilly and criminally enforce such ordinances.

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

17 e. In 2015, the Legislature enacted the Medical Marijuana Regulation and  
18 Safety Act (“MMRSA”) (Assembly Bills 243 and 266, Senate Bill 643)  
19 which created a licensing and regulatory framework for medical marijuana  
20 in California and enabled local governments to implement additional  
21 standards to permit, regulate, or ban medical marijuana businesses and  
22 marijuana activities within their jurisdictions. The MMRSA contained a  
23 dual licensing structure that required applicants seeking medical marijuana  
24 business licenses to obtain both a state license and a local license. If the  
25 local government does not allow medical marijuana businesses and  
26 marijuana activities in its jurisdiction, the applicant cannot obtain a state  
27 license.

28 f. In 2016, Senate Bill 837 changed MMRSA’s name to the Medical Cannabis  
Regulation and Safety Act (“MCRSA”).



- 1 g. On November 8, 2016, Californians approved Proposition 64, the Adult Use  
2 of Marijuana Act (“AUMA”), which legalized recreational use (adult-use)  
3 of marijuana for adults ages 21 and over. Under state law, adults may now  
4 use, possess, process, transport or give away 28.5 grams of marijuana or 8  
5 grams of concentrated cannabis. The AUMA further allows adults to  
6 cultivate six plants inside a private residence or within a locked area on the  
7 grounds of the private residence. No more than six marijuana plants may be  
8 cultivated per private residence, no matter how many people live there.
- 9 h. On June 27, 2017, the Governor signed Senate Bill 94, the Medicinal and  
10 Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The  
11 MAUCRSA unifies both the medical regulatory scheme and the adult-use  
12 scheme to achieve a single regulatory structure at the state level. The  
13 MAUCRSA shifts from the term “marijuana” to “cannabis.” The  
14 MAUCRSA continues to recognize local control and the state cannot  
15 approve licenses for cannabis businesses and cannabis activities if the  
16 license would not be in compliance with a local government’s ordinances or  
17 regulations. As with the AUMA, local governments must allow cultivation  
18 of six plants inside a private residence or inside a fully enclosed and secure  
19 accessory structure to a private residence. The MAUCRSA continues to  
20 recognize the ability of local governments to prohibit all outdoor cultivation  
21 and any other cannabis businesses and cannabis activities. The MAUCRSA  
22 makes clear that nothing in the MAUCRSA is to be interpreted to supersede  
23 or limit the County’s authority to adopt and enforce local ordinances to  
24 regulate cannabis businesses and cannabis activities licensed by the state, up  
25 to and including the County’s right to prohibit the activity.
- 26 i. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies  
27 marijuana as a Schedule I Drug, which is defined as a drug or other  
28 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

1 accepted as safe for use under medical supervision. The Federal Controlled  
2 Substances Act makes it unlawful, under federal law, for any person to  
3 cultivate, manufacture, distribute or dispense, or possess with intent to  
4 manufacture, distribute or dispense, marijuana. The Federal Controlled  
5 Substances Act contains no exemption for the cultivation, manufacture,  
6 distribution, dispensation, or possession of marijuana for medical purposes.

7 j. Cannabis cultivation in the unincorporated area of Riverside County can  
8 adversely affect the health, safety, and well-being of County residents.  
9 Countywide prohibition of cannabis cultivation is proper and necessary to  
10 avoid the risks of criminal activity, degradation of the natural environment,  
11 malodorous smells, and indoor electrical fire hazards that may result from  
12 unregulated cannabis cultivation, and that are especially significant if the  
13 amount of cannabis cultivated on a single premises is not regulated and  
14 substantial amounts of cannabis are thereby allowed to be concentrated in  
15 one place.

16 k. Cannabis cultivation at locations or premises within one thousand feet of  
17 schools, parks, and community centers creates unique risks that the  
18 cannabis plants may be observed by minors, and therefore be especially  
19 vulnerable to theft or recreational consumption by minors. Further, the  
20 potential for criminal activities associated with cannabis cultivation in such  
21 locations poses heightened risks that minors will be involved or endangered.  
22 Therefore, any amount of cannabis cultivation in such locations or premises  
23 is especially hazardous to public safety and welfare, and to the protection of  
24 children and the person(s) cultivating the cannabis plants.

25 l. Except for personal cannabis cultivation as provided in subsection b. of  
26 Section 4. of this ordinance, all cannabis cultivation is prohibited upon any  
27 premises within all unincorporated areas of Riverside County.

28 m. The County is committed to making efficient and rational use of its limited  
investigative and prosecutorial resources. There shall be a limited



1 exemption from enforcement for violations of this ordinance by primary  
2 caregivers and qualified patients for small amounts of cannabis cultivation  
3 for their own medical use in zone classifications identified section 3.4 of  
4 Ordinance No. 348 when all of the conditions and standards in section 12 of  
5 this ordinance are met.”

6 Section 3. Section 2. of Ordinance No. 925 is amended to read as follows:

7 “Section 2. AUTHORITY. This ordinance is adopted pursuant to the authority  
8 granted by Article XI, section 7 of the California Constitution, Business and  
9 Professions Code section 26200, Health and Safety Code section 11362.83, and  
10 Government Code sections 25845 and 53069.4.”

11 Section 4. New subsections b., c., and d. are added to Section 3. of Ordinance No. 925  
12 to read as follows:

13 “b. Cannabis. All parts of the plant *Cannabis sativa Linnaeus*, *Cannabis*  
14 *indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus  
15 *Cannabis* that may exist or hereafter be discovered or developed that has  
16 psychoactive or medicinal properties, whether growing or already  
17 harvested, including the seeds thereof. “Cannabis” also means cannabis as  
18 defined by Business and Professions Code section 26001 and Health and  
19 Safety Code section 11018. “Cannabis” does not mean “industrial hemp”  
20 as defined by Food and Agricultural Code section 81100 or Health and  
21 Safety Code section 11018.5. For the purpose of this ordinance, cannabis is  
22 not a crop.

23 c. Cannabis Cultivation. The planting, growing, harvesting, drying, curing,  
24 grading, trimming, or storage of one or more cannabis plants or any part  
25 thereof in any location, indoor or outdoor, including from within a fully  
26 enclosed and secure building.

27 d. Cannabis Plant. Any mature or immature cannabis plant, or any cannabis  
28 seedling.”

Section 5. Existing subsections b., c., d., e. and f. of Section 3. of Ordinance No. 925

1 are relettered subsections e., f., g., h., and i., respectively.

2           Section 6. Existing subsection g. of Section 3. of Ordinance No. 925 is reletted  
3 subsection j. and amended to read as follows:

4           “j. Marijuana. Cannabis.”

5           Section 7. Existing subsection h. of Section 3. is repealed in its entirety.

6           Section 8. Existing subsections i., j., k., l., m., n., o., p., q., and r. of Section 3. of  
7 Ordinance No. 925 are relettered subsections k., l., m., n., o., p., q., r., s. and t., respectively.

8           Section 9. Section 4. of Ordinance No. 925 is amended to read as follows:

9           “Section 4. PROHIBITIONS ON CANNABIS CULTIVATION. NUISANCE  
10 DECLARED.

11           a. Cannabis cultivation, either indoors or outdoors, fixed or mobile,  
12 upon any premises within all unincorporated areas of Riverside  
13 County is prohibited and hereby declared to be unlawful and a public  
14 nuisance that may be abated in accordance with this ordinance. The  
15 foregoing prohibition shall be imposed regardless of the number of  
16 qualified patients or primary caregivers residing at the premises or  
17 participating directly or indirectly in the cultivation. Further, this  
18 prohibition shall be imposed notwithstanding any assertion that the  
19 person(s) cultivating cannabis are the primary caregiver(s) for  
20 qualified patients or that such person(s) are collectively or  
21 cooperatively cultivating cannabis.

22           b. The prohibition in this section shall not prohibit a person 21 years of  
23 age or older from engaging in the indoor cannabis cultivation of six  
24 or fewer live cannabis plants within a single private residence or  
25 inside a detached accessory structure located upon the grounds of a  
26 private residence that is fully enclosed and secured, to the extent  
27 such cultivation is authorized by Health and Safety Code sections  
28 11362.1 and 11362.2. In no event shall more than six live cannabis  
plants be allowed per private residence under this subsection,

1 regardless of the number of persons 21 years of age or older living at  
2 the private residence. For the purposes of this subsection, private  
3 residence means a one family dwelling, apartment unit, mobile home  
4 or other similar dwelling.”

5 Section 10. The term “marijuana” is replaced with the term “cannabis” wherever the  
6 term “marijuana” is used in Section 5. through Section 25. in Ordinance No. 925.

7 Section 11. EFFECTIVE DATE. This ordinance shall take effect thirty (30) calendar  
8 days after its adoption.

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

12 By: \_\_\_\_\_

13 Chairman

14 ATTEST:

15 CLERK OF THE BOARD

16  
17 By: \_\_\_\_\_

18 Deputy

19  
20 (SEAL)

21  
22 APPROVED AS TO FORM

23 August 17, 2017

24  
25 By:  \_\_\_\_\_

26 TIFFANY N. NORTH  
27 Chief Deputy County Counsel

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