

ORDINANCE NO. 928

AN ORDINANCE OF THE COUNTY OF RIVERSIDE PROHIBITING MOBILE MARIJUANA DISPENSARIES AND MARIJUANA DELIVERIES, DECLARING MOBILE MARIJUANA DISPENSARIES AND MARIJUANA DELIVERIES TO BE A NUISANCE, AND INCORPORATING BY REFERENCE ORDINANCE NO. 725

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. On October 3, 2006, in Ordinance No. 348.4423, the Board of Supervisors adopted an amendment to Ordinance No. 348, prohibiting medical marijuana dispensaries in all zone classifications within the unincorporated areas of Riverside County. "Medical Marijuana Dispensary" is defined in Ordinance No. 348 as "[A]ny 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. A 'medical marijuana dispensary' shall not include the following uses, provided that such uses comply with this ordinance and all other applicable laws, including, but not limited to, Health and Safety Code Section 11362.5 et seq.: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the 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 Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.
- g. On October 9, 2015, the Governor signed Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill No. 643 establishing the Medical Marijuana Regulation and Safety Act (“Act”). 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.” 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.
- h. Business and Professions Code section 19340 states deliveries of medical marijuana can only be made by a dispensary in a city, county, or city and county that does not explicitly prohibit delivery by local ordinance.
- i. The purpose of this ordinance is to clarify the County’s existing prohibition on marijuana activities, which already includes a ban on mobile marijuana dispensaries, by explicitly prohibiting medical marijuana deliveries within all unincorporated areas of Riverside County.

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 sections 19315 and 19340, Health and Safety Code section 11362.83, and Government Code sections 25845 and 53069.4.

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

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

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

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

- Section 5. PROHIBITION ON MARIJUANA DELIVERY. No person shall:
- a. Deliver marijuana to any location within all unincorporated areas of Riverside County from a Mobile Marijuana Dispensary, regardless of where the Mobile Marijuana Dispensary is located, or engage in any operation for this purpose.
 - b. Deliver any marijuana-infused product such as tinctures, baked goods, or other consumable products, to any location within all unincorporated areas of Riverside County from a Mobile Marijuana Dispensary, regardless of where the Mobile Marijuana Dispensary is located, or engage in any operation for this purpose.

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

Section 7. VIOLATIONS. The procedures, remedies and penalties for violation of this ordinance and for recovery of costs related to enforcement are provided for in Ordinance No. 725, as it is amended from time to time, which is incorporated herein by this reference. Notwithstanding any other provision of the County's ordinances, a violation of this ordinance is not subject to criminal penalties.

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

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

Adopted: 3-45 of 12/15/15 (Eff: 01/14/16)