

Chapter 9.64 - MOBILE CANNABIS DISPENSARIES AND CANNABIS DELIVERIES⁴¹

Footnotes:

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Editor's note— Ord. No. 928.1, § 1, adopted September 12, 2017, in effect amended the title of Chapter 9.64.

9.64.010 - 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 the county.
- B. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, the state 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 the county and that no permit of any type shall be issued for marijuana cultivation.
- 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. On December 15, 2015, the board of supervisors adopted Ordinance No. 928 prohibiting mobile marijuana dispensaries and marijuana deliveries and declaring such activities to be a public nuisance.
- F. Through its prior actions, the board of supervisors has made clear its position with regard to marijuana dispensaries, including mobile dispensaries, and cultivation under its land use authority and police powers.
- G. 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.
- H. 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 of the Medical Cannabis Regulation and Safety Act (2015) and the adult-use scheme of the Adult-Use of Marijuana Act (2016) 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, including deliveries, if the license would not be in compliance with a local government's ordinances or regulations. 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 ban the activity.

- I. The purpose of this chapter is to clarify the county's existing prohibition on cannabis deliveries, which already includes a ban on mobile cannabis dispensaries, by explicitly prohibiting cannabis deliveries within all unincorporated areas of the county until the county adopts a comprehensive regulatory framework for medical and adult-use cannabis businesses and cannabis activities.

(Ord. No. 928, § 1, 12-15-2015; Ord. No. 928.1, § 1, 9-12-2017)

9.64.020 - Authority.

This chapter is adopted pursuant to the authority granted by Article XI, section 7 of the California Constitution, Business and Professions Code sections 26055, 26080, 26090, 26200, Health and Safety Code section 11362.83, and Government Code sections 25845 and 53069.4.

(Ord. No. 928, § 2, 12-15-2015; Ord. No. 928.1, § 1, 9-12-2017)

9.64.030 - Definitions.

As used in this chapter, the following terms shall have the following meanings:

- A. "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 chapter, cannabis is not a crop.
- B. "Cannabis products." Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- C. "Delivery." Has the same meaning as the term is defined in Business and Professions Code section 26001, subdivision (p) or thereafter amended.
- D. "Marijuana." Cannabis.
- E. "Mobile cannabis dispensary." Any clinic, cooperative, collective, club, business or group which transports or delivers, or arranges the transportation or delivery, of cannabis or cannabis products to a person.
- F. "Person." Any person, firm, cooperation, association, club, collective, society, or other organization. Person shall include any owner, manager, proprietor, employee, volunteer or salesperson.
- G. "Operation." Any effort to locate, operate, own, lease, supply, allow to be operated, or aid, abet or assist in the operation of a mobile cannabis dispensary.

(Ord. No. 928, § 3, 12-15-2015; Ord. No. 928.1, § 1, 9-12-2017)

9.64.040 - Prohibition on mobile cannabis dispensaries.

Mobile cannabis dispensaries are prohibited within all unincorporated areas of the county. No person shall locate, operate, own, suffer, allow to be operated or aid, abet or assist in the operation of any mobile cannabis dispensary within the unincorporated areas of the county.

(Ord. No. 928, § 4, 12-15-2015; Ord. No. 928.1, § 1, 9-12-2017)

9.64.050 - Prohibition on cannabis delivery.

No person shall deliver cannabis or cannabis products to any location within all unincorporated areas of the county from a mobile cannabis dispensary, regardless of where the mobile cannabis dispensary is located, or engage in any operation for this purpose.

(Ord. No. 928, § 5, 12-15-2015; Ord. No. 928.1, § 1, 9-12-2017)

9.64.060 - Public nuisance declared.

Operation of a mobile cannabis dispensary or delivery of cannabis or cannabis products within the unincorporated areas of the county in violation of this chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

(Ord. No. 928, § 6, 12-15-2015; Ord. No. 928.1, § 1, 9-12-2017)

9.64.070 - Violations.

The procedures, remedies and penalties for violation of this chapter 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 chapter is not subject to criminal penalties.

(Ord. No. 928, § 7, 12-15-2015; Ord. No. 928.1, § 1, 9-12-2017)

9.64.080 - Exemption.

The prohibitions in this chapter shall not prevent transportation of cannabis or cannabis products on public roads through the county by a state licensee acting in compliance with state law and county ordinances.

(Ord. No. 928.1, § 1, 9-12-2017)