

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



ITEM

(ID # 8250)

MEETING DATE:

Tuesday, October 23, 2018

FROM : TLMA-PLANNING:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/PLANNING: PUBLIC HEARING FOR ORDINANCE NO. 348.4898 (COMMERCIAL CANNABIS ACTIVITIES) – CEQA Exempt, pursuant to Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and Section 26055(h) of the California Business and Professions Code - REQUEST: Ordinance No. 348.4898 amends Ordinance No. 348 by replacing Article XIXh in its entirety with “COMMERCIAL CANNABIS ACTIVITIES” and establishing regulations and development standards to permit Commercial Cannabis Activities in the unincorporated areas of the County of Riverside per the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). In addition to Amendments to Article XIXh, Ordinance No. 348.4898 also makes necessary edits to other affected sections within Ordinance No. 348. – ALL DISTRICTS [\$100,900 Total cost – 100% General Fund/NCC]

RECOMMENDED MOTION: That the Board of Supervisors

1. **FIND** that Ordinance No. 348.4898 is EXEMPT from the California Environmental Quality Act, pursuant to Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and Section 26055(h) of the California Business and Professions Code based on the findings and conclusions provided herein and in the attached staff reports.
2. **ADOPT** Ordinance No. 348.4898, attached hereto as Attachment E, based upon the findings and conclusions provided herein and in the attached staff report.
3. **APPROVE** Staff’s recommended framework for implementation process for Commercial Cannabis Cultivation and Commercial Cannabis Retail Sales attached hereto as Attachment F, and **DIRECT** Staff to take the necessary steps to initiate the implementation.
4. **DIRECT** Staff to bring back to the Board for consideration, a Board Policy regarding Development Agreements for Commercial Cannabis Activities, including a Development Agreement Public Benefit payment for Commercial Cannabis Activities.
5. **DIRECT** Staff to bring back to the Board for consideration, a Board Resolution setting forth the procedures and requirements for Consideration of Development Agreements for Commercial Cannabis Activities pursuant to Government Code section 65865.

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

6. **PROVIDE DIRECTION** to Staff on whether to further study allowing commercial cannabis cultivation in three specific zones, the R-A, R-R and the W-2 Zones and return to the Planning Commission with recommendations based on the findings from that study.

7. **PROVIDE DIRECTION** to Staff on whether to further study allowing consumption of cannabis on the site of a permitted and licensed Commercial Cannabis Activity, and to further study including the use of tobacco, cigars and hookah on the site of a permitted business and return to the Planning Commission with recommendations based on the findings from the studies.

ACTION:



Charissa Leach, Assistant TLMA Director 10/15/2018

MINUTES OF THE BOARD OF SUPERVISORS

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 23,758	\$ 0	\$ 100,900	N/A
NET COUNTY COST	\$ 23,758	\$ 0	\$ 100,900	N/A
SOURCE OF FUNDS: 100% General Fund/NCC			Budget Adjustment:	N/A
			For Fiscal Year:	18/19

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

With the passage of Proposition 215, known as The Compassionate Use Act of 1996, patients and defined caregivers who possessed or cultivated marijuana (Cannabis) for medical treatment were afforded a criminal defense from criminal laws which otherwise prohibit possession or cultivation of Cannabis. In 2004, the California Legislature enacted Senate Bill 420 to clarify the scope of Proposition 215, and also provided qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes.

In October 2006, the Board of Supervisors adopted Ordinance No. 348.4423 prohibiting medical marijuana dispensaries in all zone classifications. Then, in May 2015, the Board adopted Ordinance No. 348.4802 clarifying that marijuana cultivation is also prohibited in all zone classifications. That same year in June 2015, the Board adopted Ordinance No. 925 declaring marijuana cultivation to be a public nuisance and prohibited in the unincorporated areas of the County of Riverside.

In September 2015, California enacted the Medical Marijuana Regulation and Safety Act (MMRSA), which consisted of three separate bills. The approval of the MMRSA crafted a comprehensive licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical marijuana. Additionally, MMRSA added a section to the Business and Professions Code authorizing counties that choose, to impose a tax on specified medical marijuana activities.

Approximately a year later, on June 27, 2016, Governor Jerry Brown signed Senate Bill 837, changing the term “marijuana” to “Cannabis” and renaming the Medical Cannabis Regulation and Safety Act (MCRSA).

That same year, on November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA immediately legalized the adult use and cultivation of nonmedical (adult use) Cannabis for personal consumption (allowing cultivation of up to 6 plants indoors for personal use) by adults 21 years of age or older. AUMA also legalized the commercialization and taxation of nonmedical Cannabis beginning January 1, 2018.

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

Additionally, AUMA allowed the Legislature to adopt laws to license and tax commercial Cannabis activities; and allowed for local control of adult use cannabis land uses, and reasonable regulation of personal cultivation of up to six (6) cannabis plants per residence.

The Board held a workshop on March 21, 2017, to discuss Proposition 64. At the conclusion of the workshop, Supervisors Jeffries and Washington were appointed by the Chairman as an ad hoc committee to work with the County Executive Office and County departments to study and develop options for the Board to consider regarding Cannabis businesses and Cannabis activities.

Then, on June 27, 2017, the Governor approved Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). SB 94 consolidates provisions from MCRSA and AUMA and creates one regulatory system for commercial Cannabis activity. The new system under MAUCRSA prioritizes consumer safety, public safety and tax compliance. 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. 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.

Commercial Cannabis activities continue to be prohibited in the unincorporated areas of Riverside County. Despite the County's prohibition of commercial Cannabis activities, multiple illegal dispensaries and cultivation sites have been established within unincorporated areas of the County. Knowing that Cannabis is a rapidly growing business industry and is currently occurring illegally in the County today, an enforcement strategy is necessary to effectively regulate this industry in the community. The Board ad hoc committee recognized that funding to properly enforce these business activities must be identified. In an effort to provide both a regulatory framework for commercial Cannabis to legally operate within the County, and a revenue source for enforcement against Cannabis operators acting outside of such a regulatory framework, on August 29, 2017, at the recommendation of the Board ad hoc committee, the Board directed staff to bring forward ordinance amendments or a new ordinance to establish a proposed comprehensive regulatory framework for Cannabis businesses and Cannabis activities subject to approval of permits issued by the County and pursuant to standards, conditions, and requirements in the proposed ordinance amendments.

Given the dynamic regulatory and legal landscape surrounding this issue, on March 20, 2018, at the request of the Board ad hoc committee, Staff presented the Board with an update to discuss progress on a regulatory framework for Cannabis related businesses. It was critical to determine if the Board desired staff to continue to work on development of an ordinance and if so, provide staff with policy direction on the regulatory requirements to be contained in the ordinance.

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

Recommendations were also presented to the Board that included:

- What Cannabis related businesses should be allowed to be permitted (based on zone classification) in the unincorporated areas of Riverside County, including cultivation (indoor and mixed light, while prohibiting outdoor), manufacturing/processing, testing, distributing, and retail sales of Cannabis and Cannabis products;
- Where Cannabis related businesses should be allowed to be permitted (based on zone classifications) and buffers to existing sensitive receptors and;
- Consideration of a phase-in program and a temporary limit on first year permits so that the County can consider and process applications in an orderly manner; and
- Consideration of the approach Riverside County should take, through taxation or Development Agreements, to achieve benefits for impacted communities and recover regulatory costs from Cannabis related activities.

At that March 20, 2018, Board meeting, the Board voted to direct staff to continue to work on development of an ordinance, based on the Staff's update and report, and to bring a Request for Proposal (RFP) and Development Agreement process forward for the Board's consideration. Ordinance No.348.4898, coupled with a Board Policy regarding Development Agreements for Commercial Cannabis Activities, a Board Resolution setting forth the procedures and requirements for Consideration of Development Agreements for Commercial Cannabis Activities, and the proposed Implementation Process (Attachment 'F'), will establish a regulatory structure for the County to begin to conditionally permit Commercial Cannabis Activities in specified zoning classifications.

Although applicants can now seek a State license for Commercial Cannabis Activities as of January 1, 2018, and businesses can begin operating in California's newly-legal Commercial Cannabis market, local approval is required before such a State license can be issued. Ordinance No. 348.4898, a Board Policy regarding Development Agreements for Commercial Cannabis Activities, a Board Resolution setting forth the procedures and requirements for Consideration of Development Agreements for Commercial Cannabis Activities, and the proposed Implementation Process (Attachment 'F'), would collectively establish a regulatory structure for the County to begin to conditionally permit Commercial Cannabis Activities.

Planning Commission Public Hearings

The Riverside County Planning Commission considered Ordinance No. 348.4898 at a regularly scheduled public hearing held on June 20, 2018. The Staff Report for that hearing is included herein as Attachment A. At the conclusion of the hearing, the Planning Commission deliberated,

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

requested further information and potential recommendations on several items, and continued the hearing to July 18, 2018.

At the continued, July 18, 2018, Planning Commission hearing, Staff addressed the Commission's inquires. The detailed responses are provided in the July 18, 2018, Planning Commission Staff Report which is included as Attachment B. These inquires included the following two items that Staff will be asking the Board for direction on:

1. *The Commission asked Staff to re-evaluate three specific zones, the R-A, R-R and the W-2 Zones for the potential for allowing Cannabis Cultivation permits in these zones.*

Response. The R-A, R-R and W-2 Zones are considered residential zones. Staff contends that Cannabis Cultivation within residential neighborhoods can cause numerous compatibility concerns including, offensive odors, security and safety concerns, use of hazardous materials or pesticides, unpermitted accessory electrical and building construction (causing high fire danger), light and glare, noise from fans or generators, potential damage to housing stock from mold and mildew, and reduced housing stock. Although the State has exempted local Commercial Cannabis ordinances from CEQA until July, 1 of 2019, Staff asserts that because of the nature of these residential zones and impacts that could be experienced by existing residential neighborhoods, that these primarily residential zones should be further analyzed before a decision is made to allow commercial cannabis cultivation to be permitted in these zones. It is important to emphasize that the zone itself is not the only criteria that dictates if a use may be appropriate for a property; the County General Plan and the CEQA analysis for each proposed use and property also play key roles in determining this.

For example, over 57% of R-R Zoned property, and over 49% of R-A Zoned property in the unincorporated County area exhibits a General Plan Designation of Open Space – Conservation Habitat. About 50% of W-2 Zoned property is within the Open Space – Conservation Habitat Designation and almost 30% is within the Open Space Rural Designation. These General Plan Land Use Designations are typical for areas that have limited access and a lack of services, including, electricity, water and sewer. Other key issues that Staff reviewed were:

- How commercial cannabis cultivation is different than other agricultural products that may be allowed in these zones.
- At what scale does the use become more prominent than the residential use?

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

- Can Commercial Cannabis Cultivation be permitted in certain rural residential zones without negatively impacting the rural residential quality of life?
- What development guidelines could be established so that residents are not adversely impacted by a commercial business in close proximity to their home?

Staff presented the Planning Commission with alternate ordinance language that would allow limited cannabis cultivation on specified lot sizes with strict development standards. Staff also recommended that an in-depth analysis of the potential impacts to the residential quality of life should be conducted before permitting Commercial Cannabis Cultivation in these zones. After deliberations, the Planning Commission concluded that analyzing these zones in further detail could provide much needed additional data and information for the Commission to make a better informed recommendation to the Board. Although the consensus was that it most likely could work at a small scale on large lots, with appropriate standards, the Commissioners were not ready to recommend to the Board that commercial cannabis cultivation be considered in the R-A, R-R or W-2 Zones until further research is completed. At the close of the hearing, the Commission asked Staff, with support of the Board, to further explore the potential impacts to rural neighborhoods and the possibility of allowing limited Cannabis Cultivation in the R-A, R-R and W-2 Zones.

2. *The June 20, 2018, Staff-recommended Commercial Cannabis Activities Ordinance had prohibited on-site consumption of Cannabis or Cannabis products on a lot that has been permitted for a Cannabis Activity. At that June meeting the Commission asked Staff to re-evaluate the potential for on-site consumption and bring back more information on that topic.*

Response. Minimal information and historical data is available given the newness of regulating the Cannabis Industry and the onsite consumption component in particular. Many agencies that have experience permitting cannabis businesses have either decided to ban onsite consumption or are erring on the side of caution and have elected to take a ‘wait and see’ approach.

The County of Riverside Land Use Ordinance (Ordinance No. 348) currently allows tobacco and hookah shops in limited zones, but the smoking of tobacco, cigar or hookah within a commercial premises is not currently an allowed use. Because on-site consumption is not currently an allowed use listed in the County’s Land Use Ordinance, impacts of this use have not been studied and should be thoroughly examined. Further research and analysis of these uses in concert with cannabis smoking lounges is warranted before Staff could make a recommendation on cannabis onsite consumption. Further, the permitting of these uses is in great flux throughout other jurisdictions that have legalized

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

commercial cannabis businesses. Therefore, Staff recommended that, until further research can be performed and historical data can be collected, the 'onsite' consumption of cannabis be prohibited, as indicated in the recommended Ordinance.

The Commissioners expressed their concerns regarding the onsite consumption of cannabis given the lack of data and information available and the fact that the County's existing Land use Ordinance does not allow for the onsite consumptions of tobacco, hookah or cigars.

After some deliberation the Commission asked Staff, with concurrence of the Board, to further study the environmental impacts of onsite consumption of tobacco, hookah, cigars and cannabis and bring recommendations back to the Planning Commission for consideration.

At that hearing the Planning Commission recommended approval of the ordinance amendment regarding Commercial Cannabis Activities, as presented, by a unanimous vote (5-0).

Ordinance No. 348.4898 was formally numbered Ordinance No. 348.4862. For clerical reasons, the ordinance number was changed to 348.4898. Except as further described below, the language and content of Ordinance No. 348.4898 remains the same as that provided in Ordinance No. 348.4862. Ordinance No. 348.4898 does include the following clarifying changes:

- The effective date for the ordinance was changed from 30 days after its adoption to 60 days after its adoption.
- An integration provision was added to Section 60.
- Section 19.519.C.12. related to cannabis deliveries was updated to be consistent with proposed State regulations.

Airport Land Use Commission Review

As required for all Land Use Ordinance Amendments the subject ordinance amendment was submitted to the Airport Land Use Commission (ALUC) for review. Because each commercial cannabis activity requires a conditional use permit, is subject to CEQA and no standards or changes to land uses that would increase density or non-residential intensity are proposed, on July 9, 2018, the ALUC found that the ordinance amendment has no possibility for having an impact on the safety of air navigation within airport influence areas located within the unincorporated areas of the County and therefore, is consistent with all Riverside County Airport Land Use Compatibility Plans.

Ordinance No. 348.4898 is included herein as Attachment D in its entirety, and the following highlights some of the recommended definitions, development standards and operational requirements:

1. PROHIBITED ZONES:

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

All Commercial Cannabis Activities are prohibited in the following Zones: R-R, R-R-O, R1, R-1A, R-A, R-2, R2-A, R-3, R-3A, R-T, R-T-R, R-4, R-5, R-6, R-7, C/V, C-C/V, WC-R, WC-R, WC-E, W-2, R-D, N-A, W-2-M, W-1, W-E, M-R, M-R-A and MU Zones.

2. TYPES OF CANNABIS ACTIVITIES GENERALLY DEFINED:

- **Cannabis Cultivation.** Any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of Cannabis.
- **Cannabis Wholesale Nursery.** A site that produces only clones, immature plants, seeds, or other agricultural products used specifically for the planting, propagation, and cultivation of Cannabis.
- **Cannabis Retailer.** A facility where Cannabis, Cannabis products, or devices specifically for the use of Cannabis or Cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers Cannabis and Cannabis products as part of a retail sale.
- **Cannabis Microbusiness Facility.** A facility where an operator may be permitted for multiple (a minimum of 3 select, and up to 4) commercial Cannabis activities under one permit.
- **Cannabis Manufacturing Facility (Non-Volatile).** A facility that compounds Cannabis or Cannabis products either directly or indirectly or by extraction and/or infusion methods, or independently by means of chemical synthesis or by a combination of extraction and/or infusion and chemical synthesis, using non-volatile organic compounds, at a fixed location, that packages or repackages Cannabis or Cannabis products, or labels or relabels its containers.
- **Type N Cannabis Manufacturing Facilities** only produce edible or topical products or other types of Cannabis products other than extracts or concentrate using infusion processes.
- **Type P Cannabis Manufacturing Facilities** only package or repackage Cannabis products or label or relabel the Cannabis product container or wrapper.
- **Cannabis Manufacturing Facility (Volatile).** A facility that processes, produces, prepares, propagates, holds, stores, packages, labels, or compounds Cannabis or Cannabis products either directly or indirectly or by extraction and/or infusion methods, or independently by means of chemical synthesis or by a combination of extraction and/or infusion and chemical synthesis, using volatile organic compounds, (ex: butane, hexane, pentane) at a fixed location, that packages or repackages Cannabis or Cannabis products, or labels or relabels its containers.

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

- **Shared-Use Cannabis Manufacturing Facility** is primarily operated by a Non-Volatile Manufacturer, A Volatile Manufacturer or Type N Manufacturer who may lease or share space with the holder of a Type S (shared space only) State license.
- **Cannabis Distribution Facilities.** A facility engaged in the storage of Cannabis or Cannabis products, for later distribution to permitted and licensed Cannabis Manufacturing Facilities, Cannabis Testing Facilities, or Cannabis Retailers.
- **Cannabis Testing Facility.** A laboratory, facility, or entity that offers or performs tests of Cannabis or Cannabis products.

3. TYPES OF CANNABIS ACTIVITIES PROHIBITED:

- Outdoor Cultivation of mature cannabis plants. (Cannabis Wholesale Nurseries may be permitted in the A-1, A-P, A-2, A-D zones.)
- Mobile Cannabis Retailers.
- Any Commercial Cannabis Activity that is not expressly provided for in both an approved conditional use permit and a valid Cannabis license issued by the State.

4. TYPES OF CANNABIS ACTIVITIES ALLOWED:

CANNABIS CULTIVATION

- **Indoor Cannabis Cultivation**, is allowed as follows and shall be within a fully enclosed building and be setback from lot lines and rights-of-ways in accordance with the development standards for the zone classification in which it is located.

Indoor Cultivation	Cultivation Size Limits	Minimum Lot Size (Square Feet)	Allowable Zone(s)
Specialty Cottage	500 SF	Minimum lot size per Zone	C1/CP, C-P-S, I-P, M-SC, M-M, M-H, A-1, A-P, A-2, A-D
Specialty	5,000 SF	Minimum lot size per Zone	C1/CP, C-P-S, I-P, M-SC, M-M, M-H, A-1, A-P, A-2, A-D
Small	10,000 SF	Minimum lot size per Zone	C1/CP, C-P-S, I-P, M-SC, M-M, M-H, A-1, A-P, A-2, A-D
Medium	22,000 SF	Minimum lot size per Zone	I-P, M-SC, M-M, M-H

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

- When an Indoor Cannabis Cultivation facility is located adjacent to a residentially zoned lot the minimum setback shall be 25 feet.
- Indoor Cannabis Cultivation requires renewable energy systems designed to have a generation potential equal to or greater than 20-percent of the anticipated energy demand.
- Indoor Cannabis Cultivation shall be setback a minimum of 1,000 feet from Child Day Care Centers, K-12 schools, public parks, or Youth Centers. Provided a variance is granted, the minimum setback may be reduced to 600 feet. **Mixed Light Cannabis Cultivation**, is allowed as follows:

Mixed Light Cultivation	Cultivation Size Limits	Minimum Lot Size (Gross Acres)	Allowable Zone(s)
Specialty Cottage	2,500 SF	1	A-1, A-P, A-2, A-D
Specialty	5,000 SF	1.5	A-1, A-P, A-2, A-D
Small	10,000 SF	2.5	A-1, A-P, A-2, A-D
Medium	22,000 SF	5	A-1, A2

- Mixed Light Cannabis Cultivation shall be within hoop structures, greenhouses and other similar structures.
- Mixed Light Cannabis Cultivation shall be setback from lot lines and rights-of-ways a minimum of 50 feet. When a Mixed Light Cannabis Cultivation facility is located adjacent to a residentially zoned lot or for any Medium Mixed Light Cultivation, the minimum setback shall be 100 feet.
- Mixed Light Cannabis Cultivation shall be setback a minimum of 1,000 feet from Child Day Care Centers, K-12 schools, public parks, or Youth Centers. Provided a variance is granted, the minimum setback may be reduced to 600 feet.

CANNABIS WHOLESALE NURSERIES

- **Cannabis Wholesale Nurseries**, are allowed as follows and may be outdoors, indoors or mixed light and shall be setback from lot lines and rights-of-ways a minimum of 50 feet.

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

Wholesale Nurseries	Minimum Lot Size (Gross Acres)	Allowable Zone(s)
Outdoor Wholesale Nursery	2	A-1, A-P, A-2, A-D
Indoor Wholesale Nursery	Minimum lot size per Zone	I-P, M-SC, M-M, M-H
Mixed Light Wholesale Nursery	1	A-1, A-2

CANNABIS MANUFACTURING FACILITIES

- Cannabis Manufacturing Facilities are allowed in the I-P, M-SC, M-M and the M-H Zones.
- Consistent with the M-SC, M-M and the M-H Zones, the minimum lot size for a Cannabis Manufacturing Facility shall be 10,000 square feet. A Volatile Cannabis Manufacturing Facility shall be setback from a residential zone a minimum of 40 feet which may include and may include landscaping as required.

CANNABIS TESTING FACILITIES

- Cannabis Testing Facilities are allowed in the C1/C-P, C-P-S, I-P, M-SC, M-M, and M-H Zones.
- All Cannabis Testing Facilities shall comply with the setback and lot size standards for the zone classification in which they are located, except when adjacent to a residential zone where the minimum setback from the residentially zoned lot lines shall be 25 feet.

CANNABIS RETAILERS

- Cannabis Retailers are allowed in the C-1/C-P, C-P-S, I-P, M-SC, M-M and M-H Zones.
- Cannabis Retailers – Storefront and Non-Storefront shall comply with the setback and lot size standards for the zone classification they are located in, except when adjacent to a residential zone where the minimum setback from the residentially zoned lot lines shall be 40 feet.

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

- Cannabis Retail Sales Activities shall be setback a minimum of 1,000 feet from Child Day Care Centers, K-12 schools, public parks, or Youth Centers. Provided a variance is granted, the minimum setback may be reduced to 600 feet.
- Cannabis Retailers shall not be located within 1,000 feet of another Cannabis Retailer or within 500 feet of a smoke shop of similar facility.
- Cannabis or Cannabis Products shall not be sold or delivered by any means or method to any person within a motor vehicle.

CANNABIS DISTRIBUTION FACILITIES

- Cannabis Distribution Facilities, are allowed in the C-1/C-P, C-PS, I-P, M-SC, M-M and M-H Zones.
- Cannabis Distribution Facilities shall comply with the setback and lot size standards for the zone classification they are located in, except when adjacent to a residential zone where the minimum setback from the residentially zoned lot lines shall be 25 feet.
- Cannabis and Cannabis Products shall only be transported between permitted and licensed Commercial Cannabis Activities.
- Cannabis Distribution Facilities shall not be open to the public.

CANNABIS MICROBUSINESS FACILITIES

- Cannabis Microbusiness Facilities are allowed in the C-1/C-P, C-P-S, I-P, M-SC, M-M and M-H Zones, except in the instance that a Cannabis Microbusiness includes manufacturing uses, in which case such Cannabis Microbusiness is allowed in the I-P, M-SC, M-M and M-H Zones.
- All Cannabis Microbusiness Facilities shall comply with the setback standards for the zone classification they are located in, except when adjacent to a residential zone where the minimum setback from the residentially zoned lot lines shall be 25 feet. In the event that a Cannabis Microbusiness Facility includes retail sales of Cannabis, then the minimum setback from residentially zoned lot lines shall be 40 feet.
- Cannabis Microbusiness Facilities shall comply with the operational requirements apply to the specified uses authorized by the approved conditional use permits, and the water and energy conservation standards as applicable to Cannabis Microbusiness Facilities that includes cultivation.

TEMPORARY CANNABIS EVENT

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

- Temporary Cannabis Events are allowed on County Fair Property or District Agricultural Association property, subject to approval by those entities and by issuance of a County permit.
- Temporary Cannabis Events are prohibited during the hours of 12:00 a.m. to 6:00 a.m.
- Temporary Cannabis Events shall be setback a minimum of 100 feet from lot lines.
- The sale or consumption of alcohol or tobacco is not allowed at the location of a Temporary Cannabis Event.
- Access to the area(s) where sale or consumption of Cannabis occurs is restricted to persons 21 years of age or older at all Temporary Cannabis Events.

5. PERMIT REQUIREMENTS FOR ALL COMMERCIAL CANNABIS ACTIVITIES:

All Commercial Cannabis Activities are subject to, but not limited to, the following requirements:

- Obtain a Conditional Use Permit from the County
- Enter into a Development Agreement with the County
- Obtain Board Approval
- After approval by the County, obtain the applicable State license(s)
- Operate in a manner that prevents nuisance odors from being detected offsite
- Implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing Cannabis or Cannabis Products and to deter and prevent the theft of Cannabis or Cannabis Products at the Commercial Cannabis Activity
- Maintain clear and adequate records and documentation demonstrating that all Cannabis or Cannabis Products have been obtained from, and are provided to, other permitted and licensed Cannabis operations
- Obtain a 'Will Serve' letter from the applicable water purveyor, indicating agreement to supply water for the Commercial Cannabis Activity
- Comply with all applicable local and State laws, ordinances and regulations including, but not limited to:
 - The Riverside County General Plan
 - The California Environmental Quality Act
 - Building Codes
 - Fire Codes
 - Riverside County Ordinance No. 457
 - Riverside County Ordinance No. 657

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

- Airport Land Use Compatibility Plans
- Weights and measures regulations
- Track and trace requirements
- Pesticide use
- Water quality
- Storm water discharge
- The grading of land

Public Input

This public hearing for Ordinance No. 348.4898 was advertised in the Press Enterprise Newspaper and the Desert Sun Newspaper. Since the Board's initiation of this ordinance, Staff created a website to correspond with the public and garner input using an online survey. Approximately, 338 emails have been received, including 64 completed surveys. Additionally, on March 20, 2018, the Board of Supervisors held a public meeting to receive an ordinance update from staff. At that meeting, 41 people spoke and gave input to the Board. Prior to that meeting, 121 letters and emails were received by Staff. Of the 121 letters and emails received, 41 indicated support of regulation, 34 indicated opposition of regulation, and 48 indicated a neutral position for regulation. From March 20, 2018 until the June 20, 2018 hearing before the Planning Commission, Staff received approximately 80 emails regarding the ordinance, including a 26 page report from the Anza Valley MAC – Cannabis Emergency Regulation Committee, and a number of suggestions to include in the ordinance itself. Additionally, Staff received 267 surveys from the Anza, Aguanga, Sage, and Mountain communities regarding Marijuana Cultivation and 111 letters from the Anza/Aguanga "Campaign of a 1000 Letters." At the June 20, 2018 Planning Commission hearing, 49 members of the public spoke and gave input to the Commission. The Commission closed the public hearing and voted to continue the item one month so that Staff could address questions posed by the Commission. Between that June 20, 2018 hearing and the July 18, 2018 hearing, Staff received 75 letters and 23 emails with input regarding the draft ordinance. At the July 18, 2018 Planning Commission hearing, 25 members of the public spoke. At both Planning Commission hearings, the majority of the speakers spoke in favor of a Commercial Cannabis Ordinance. While some members of the public desired more liberal regulations, particularly for cultivation, others spoke to the potential impacts to residential neighborhoods. The overwhelming majority of speakers at both hearings were from the Third District, more specifically, the Anza, Aguanga and Sage areas of the Third District. After the July 20, 2018 Planning Commission hearing, 25 emails and letters were received. The majority of those spoke in favor of not allowing Cannabis Cultivation in Rural and Residential areas. Staff copies of the recent correspondence and a detailed summary in spreadsheet format is included as part of Attachment C. Comments received prior to July 20, 2018 are included in Attachments A and B.

Development Agreements

Staff is recommending a Development Agreement approach to Commercial Cannabis Activity Permits based on prior Board discussion and direction. Government Code section 65864 et seq. authorizes the County to enter into binding Development Agreements. The use of negotiated

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

Development Agreements allows the County to achieve public benefits in those communities where Commercial Cannabis Activities will be located and allows the County to recover the County's regulatory costs associated with these activities. A Sample Development Agreement Template is included as Attachment D. Note that this is a sample and subject to change, as these Development Agreements will be processed with each conditional use permit (CUP) and, while similar in terms in many instances, each will be negotiated and will contain some unique, project specific terms. Except for activities that include cannabis cultivation or cannabis retail sales, all other applicants considering commercial cannabis activities may submit conditional use permit applications to the Planning Department and process these for conditional use permits, concurrently with a Development Agreement once Ordinance No. 348.4898 is in effect (60 days after the Board's adoption). The implementation plan, as shown in Attachment F shall be followed for the processing of land use applications for cannabis cultivation or retail sales. Commercial Cannabis Activities that involve cannabis retail sales and cultivation activities will be required to take part in the first-year implementation process. All Commercial Cannabis Activity CUPs will be processed concurrently with a Development Agreement.

A Development Agreement is a contract entered into between a Public Agency and a development applicant, through which the Public Agency confers certain rights and privileges to an applicant in consideration of Public benefits provided by the applicant. As reflected in the draft Board policy, attached hereto as Attachment G, Staff is recommending that the County offer a five-year agreement term plus the opportunity for one five-year extension to provide the applicant with greater certainty for the operations. Any conditional use permit issued for Commercial Cannabis Activities shall also have a term consistent with the term of the Development Agreement. As part of the County's consideration of a Development Agreement, Staff is recommending that there be two levels of Public Benefit provided:

- A Baseline Public Benefit, which would be consistent across types of Commercial Cannabis Activities and which will recover the County's cost regulation and;
- An Additional Public Benefit that is unique to each project and which provides a local (community based) benefit.

The Development Agreement will dictate a Baseline Public Benefit Rate that will be calculated to account for the direct and indirect costs of regulating permitted businesses. This would be in addition to any application and permit fees applicable to the conditional use permits. These direct and indirect costs could include Code Enforcement, compliance inspections, Law Enforcement (as applicable), public education, drug treatment, and other costs for which there is a reasonable connection. As part of the land use entitlement process, applicants would also include a proposed Additional Public Benefit. The form of what and how much they propose for Additional Public Benefits would be up to the applicant, but suggestions may include funding for infrastructure, paying for the cost of specific additional sheriff patrol hours in the unincorporated area, community clean-up or beautification programs, and others. These additional Public Benefits are intended to be community based, therefore applicants will be encouraged to reach out to their communities for input.

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

Should the Board approve the Commercial Cannabis Ordinance (Ordinance 348.4898) Staff recommends the following to implement the Development Agreement process:

- Staff recommends that the Board approve a Sole Source Contract with HdL (separate item on this agenda) to engage their services to assist in the implementation process, including a suggested Baseline Public Benefit Rate and;
- Once the Baseline Public Benefit Rate has been developed Staff would return to the Board for approval of a Board Policy regarding Development Agreements for Commercial Cannabis Activities, including a Development Agreement Public Benefit payments for Commercial Cannabis Activities; and
- Staff would bring to the Board, for approval, a Board Resolution setting forth the procedures and requirements for Consideration of Development Agreements for Commercial Cannabis Activities pursuant to Government Code section 65865.

It is anticipated that Staff will bring the proposed Board Policy and Board Resolution back to the Board for approval before the end of the year.

CEQA

Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and Section 26055(h) of the California Business and Professions Code exempts from the California Environmental Quality Act (CEQA), until July 1, 2019, the adoption of a specified ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial Cannabis activity. Ordinance No. 348.4898 is the County's ordinance regulating cannabis activities and the ordinance requires discretionary review and land use permits for all Commercial Cannabis Activities. Therefore, Ordinance No. 348.4898 complies with Senate Bill 94 and Section 26055(h) of the Business and Professions Code and is exempt from CEQA.

Framework for Implementation Process

Staff has developed a proposed framework for an implementation process of an initial, first-year, ramp-up for processing for conditional use permits for Commercial Cannabis Cultivation and Retail Sales. Per Board discussion and direction, this implementation process will allow for 19 Commercial Cannabis Retail Sales use permits and 50 Commercial Cannabis Cultivation land use permits to be processed. Once the Ordinance No. 348.4898 is in effect (60 days after the Board's adoption), except for activities that include the cultivation or retail sales of cannabis or cannabis products, all other applicants considering commercial cannabis activities may submit land use applications to the Planning Department and process these for conditional use permits, concurrently with a Development Agreement. The Staff's recommended implementation process is included as Attachment F.

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

Impact on Residents and Businesses

The Commercial Cannabis Ordinance has been crafted to allow for Commercial Cannabis Activities that could potentially co-exist with existing and future businesses and within reasonable development standards that would protect residential neighborhoods. Because each conditional use permit would be discretionary, include discretionary, negotiated Development Agreements, be subject to public hearings, and be required to comply with the California Environmental Quality Act (CEQA), each case will be individually reviewed and vetted by the hearing bodies and the public to ensure that the proposed permitted use is compatible with surroundings and mitigates potential impacts to residents and businesses.

Additional Fiscal Information

As of the writing of this report the total cost to complete this ordinance amendment is approximately \$100,900 – funded through NCC budget allocation. The Planning process for this project commenced in fiscal year 17/18.

ATTACHMENTS:

Attachment A: June 20, 2018 Planning Commission Staff Report

Attachment B: July 18, 2018 Planning Commission Staff Report

Attachment C: Summary of Public Input & Staff Responses

Attachment D: Sample Development Agreement Template

Attachment E: Ordinance 348.4898

Attachment F: Proposed Implementation Process

Attachment G: Draft Board Policy Regarding Commercial Cannabis Activities


Scott Bruckner 10/16/2018


Gregory F. Priamos, Director County Counsel 10/16/2018