

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDINANCE NO.**

**An ordinance of the County of San Bernardino, State of California, to amend Section 11.0206(a)(1) and Section 11.0208(e)(1) of Chapter 2 of Division 1 of Title 1 of the San Bernardino County Code, relating to increased fines for engaging in prohibited commercial cannabis activity.**

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. The Board of Supervisors of San Bernardino County finds that:

(a) Federal Law (codified at 21 U.S.C. Sections 801 et seq., entitled the “Controlled Substances Act”) (“CSA”) makes it unlawful to manufacture, distribute, or possess any controlled substances, including marijuana, which has, as a Schedule I drug under the CSA, a high potential for abuse and no accepted medical value in treatment; and,

(b) In 2016, the San Bernardino County Board of Supervisors passed Ordinance 4309 which added Chapter 84.34 to Division 4 of Title 8 of the San Bernardino County Code making it unlawful to engage in commercial cannabis activity within the unincorporated areas of San Bernardino County. In approving Ordinance 4309, the Board of Supervisors found that commercial cannabis activity, whether for purported medical purposes or otherwise, in the unincorporated area of San Bernardino County may adversely affect the health, safety, and well-being of County residents and has the potential for detrimental impacts on the County. The continued Countywide prohibition of commercial cannabis activity is proper and necessary to avoid the potential risks of criminal activity – including trespassing, theft, violent robberies and robbery attempts - degradation of the natural environment, unauthorized use of water, malodorous conditions, nuisance noise, damage to residences and other buildings, and dangerous electrical alterations and use of electricity.

(c) On June 27, 2017, the Governor approved Senate Bill 94, named the

1 Medicinal and Adult-Use of Cannabis Regulatory and Safety Act (“MAUCRSA”).  
2 MAUCRSA consolidated prior State law and established a unified medical and adult use  
3 regulatory scheme statewide. Pursuant to MAUCRSA the State cannot issue licenses  
4 for cannabis facilities that violate local ordinances.

5 (d) Of critical importance, MAUCRSA amended Business and Professions  
6 Code section 26200 and expressly noted that nothing in its provisions can be  
7 interpreted to supersede or limit a local agency’s authority to adopt and enforce local  
8 ordinances to regulate businesses licensed by the State, and ~~the-that~~ local agencies  
9 maintains authority over land use and zoning, business licensing, and regulations.

10 (e) In 2019, the San Bernardino County Board of Supervisors adopted  
11 Ordinance 4360, which amended Section 84.34.030 of Chapter 84.34 of Division 4 of  
12 Title 8 of the San Bernardino County Code making it a misdemeanor to engage in  
13 commercial cannabis activity within the unincorporated areas of San Bernardino  
14 County.

15 (f) Despite passing multiple laws addressing commercial cannabis activity,  
16 the unlawful cultivation of cannabis within the unincorporated areas of San Bernardino  
17 County has increased exponentially over the past several years. In addition, the illegal  
18 operation of dispensaries continues to occur. Limited public resources are severely  
19 taxed by the proliferation of illicit commercial cannabis activity which brings violent crime  
20 to the neighboring areas and impacts the health and safety of the communities where  
21 ~~those-that~~ illicit ~~activities-activity~~ occurs. The rise in illegal commercial cannabis activity  
22 has contributed to an increase in crime, blight, public nuisance, environmental damage,  
23 significant water usage, theft of electricity and pollution. Conditions have worsened so  
24 quickly for these communities that immediate action is needed.

25 (g) The purpose of this ordinance is to address the increase in illegal  
26 commercial cannabis activity, including unlawful cultivation, which presents a serious  
27 and immediate risk to public health and safety. This ordinance provides for increased  
28 fines and penalties to deter violators and make enforcement actions more impactful in

1 eradicating the illegal activity.

2 (h) In order to address the threat to the public peace, health, safety and  
3 welfare, this ordinance helps to ensure that the enforcement efforts of the Sheriff's  
4 Department and Land Use Services, Code Enforcement Division are supported by  
5 meaningful penalties that will ameliorate the illegal activity that continues to occur.  
6

7 SECTION 2. Section 11.0206(a)(1) of the San Bernardino County Code is  
8 amended to read:

9 **11.0206 Criminal Actions.**

10 (a) Criminal Penalties for Violations. It is unlawful for any person to violate  
11 any provision of this Code, or to violate any provision of any permit issued pursuant to  
12 this Code, or the conditions of approval for such permit granted pursuant to this Code.  
13 Unless otherwise specified in another part of this Code, any person committing such  
14 violation shall be deemed guilty of a misdemeanor.

15 (1) Misdemeanor Violations. Except as provided below, Upon  
16 conviction of a misdemeanor, or upon a plea of nolo contendere (commonly called "no  
17 contest"), the penalty shall be a base fine of not less than \$500.00 and not more than  
18 \$1,000.00, or by imprisonment in the County jail for a period of not more than six  
19 months, or by both such base fine and imprisonment. Any court costs that the court  
20 may otherwise be required to impose pursuant to applicable State law or local  
21 ordinance shall be imposed in addition to the base fine. The court, or judge thereof, in  
22 the order granting probation, may suspend the imposing or the execution of the  
23 sentence and may direct that the suspension may continue for a period of time not  
24 exceeding three years, and upon those terms and conditions as it shall determine. The  
25 court, or judge thereof, in the order granting probation and as a condition thereof, may  
26 imprison the defendant in a county jail for a period not exceeding the maximum time  
27 fixed by law in the case.

28 ...

1 (B) Violations of Chapter 84.34. Upon conviction of a  
2 misdemeanor, or upon a plea of nolo contendere (commonly called “no contest”)  
3 involving misdemeanor violations of Chapter 84.34, the penalty shall be as follows:

4 (I) Any person convicted of a misdemeanor for cannabis  
5 cultivation in violation of Chapter 84.34 where the number of cannabis plants located on  
6 the premises is less than 200 shall be punished by a base fine of up to \$1,000.00 upon  
7 a first conviction; by a base fine of up to \$1,500.00 for a second conviction; by a base  
8 fine of up to \$3,000.00 upon a third or subsequent conviction; or by imprisonment in the  
9 County jail for a period of not more than six months; or by both such base fine and  
10 imprisonment;

11 (II) Any person convicted of a misdemeanor for  
12 commercial cannabis activity related to operation of a dispensary, or delivery,  
13 manufacturing, transportation, distribution, or cultivation where the number of cannabis  
14 plants located on the premises is greater than 200, in violation of Chapter 84.34 shall be  
15 punished by a base fine of up \$3,000.00 upon a first conviction; by a base fine of up to  
16 \$6,000.00 upon a second conviction; by a base fine of up to \$10,000.00 upon a third or  
17 subsequent conviction; or by imprisonment in the County jail for a period of not more  
18 than six months; or by both such base fine and imprisonment.

19  
20 SECTION 3. Section 11.0208(e)(1) of the County Code is amended to read:

21 **11.0208 Administrative Citation Actions.**

22 ...

23 (e) Administrative Penalties and Costs.

24 (1) Unless otherwise provided in this Code or as indicated below, the  
25 amount of penalty to be imposed for a violation of this Code and assessed by means of  
26 an administrative citation shall be \$100.00 for the first occurrence of a violation; \$200.00  
27 for the second occurrence of the same violation within one year; and \$500.00 for the  
28 third and each subsequent occurrence of the same violation within one year. The

1 maximum fines imposed in this Section are based upon the provisions of Government  
2 Code §-section 25132 and will be increased automatically and without amendment to  
3 this Section upon any amendment to Government Code §-section 25132 increasing the  
4 amount of fines permitted.

5 ...

6 (B) If the violation concerns commercial cannabis activity subject  
7 to Chapter 84.34, the following fines shall apply:

8 (I) If the commercial cannabis activity occurring on a  
9 property involves the cultivation of cannabis not authorized by Sections 84.34.040 and  
10 84.34.050, and the number of cannabis plants located on the premises does not exceed  
11 200, the citation fine amount shall be \$1,000.00 for a first citation; \$1,500.00 for a  
12 second citation; and \$3,000.00 upon a third or subsequent citation;

13 (II) If the commercial cannabis activity occurring on a  
14 property involves the cultivation of cannabis and the number of cannabis plants located  
15 on the premises exceeds 200, the citation fine amount shall be \$3,000.00 for a first  
16 citation; \$6,000.00 for a second citation; and \$10,000.00 upon a third or subsequent  
17 citation;

18 (III) If the commercial cannabis activity occurring on a  
19 property involves the operation of a dispensary, or delivery, manufacturing,  
20 transportation or distribution, as defined in section 84.34.020, the citation fine amount  
21 shall be \$3,000.00 for a first citation; \$6,000.00 for a second citation; and \$10,000.00  
22 upon a third or subsequent citation.

23  
24 SECTION 4. The Board declares that it would have adopted this Ordinance and  
25 each section, subsection, sentence, clause, phrase, or portion of it irrespective of the  
26 fact that any one or more sections, subsections, clauses, phrases or portions of it be  
27 declared invalid and unconstitutional. If for any reason any portion of this Ordinance is  
28 declared invalid or unconstitutional, then all other provisions of it shall remain valid and

1 enforceable.

2

3 SECTION 5. This ordinance shall take effect thirty (30) days from the date of  
4 adoption.

5

6

\_\_\_\_\_  
CURT HAGMAN, Chairman  
Board of Supervisors

7

8

9 SIGNED AND CERTIFIED THAT A COPY  
10 OF THIS DOCUMENT HAS BEEN DELIVERED  
11 TO THE CHAIRMAN OF THE BOARD

12 LYNNA MONELL, Clerk of the  
13 Board of Supervisors

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 STATE OF CALIFORNIA )  
2 ) ss.  
3 COUNTY OF SAN BERNARDINO )

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,  
5 State of California, hereby certify that at a regular meeting of the Board of Supervisors  
6 of said County and State, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, at which  
7 meeting were present Supervisors: \_\_\_\_\_

8 and the Clerk, the foregoing ordinance was passed and adopted by the following vote,  
9 to wit:

10 AYES: SUPERVISORS:

11 NOES: SUPERVISORS:

12 ABSENT: SUPERVISORS:

13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official  
14 seal of the Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2021.

15 LYNNA MONELL, Clerk of the  
16 Board of Supervisors of  
17 San Bernardino County,  
18 State of California

19 \_\_\_\_\_  
20 Deputy

21 Approved as to Form:

22 MICHELLE D. BLAKEMORE  
23 County Counsel

24 By: \_\_\_\_\_  
25 JOLENA E. GRIDER  
26 Deputy County Counsel

27 Date: \_\_\_\_\_  
28