1	ORDINANCE NO.
2	An ordinance of San Bernardino County, State of California,
3	to add Section 84.34.080 to Chapter 84.34 of Division 4, Title 8 of the San Bernardino County Code relating to items
4	typically used to facilitate the cultivation of cannabis and to
5	amend Section 86.09.090 of Chapter 86.09 of Division 6, Title 8 of the San Bernardino County Code relating to
6	classifying all violations of the Development Code as misdemeanors unless otherwise stated.
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8	The Board of Supervisors of the County of San Bernardino, State of California,
9	ordains as follows:
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11	SECTION 1. The Board of Supervisors of San Bernardino County finds that:
12	(a) Section VII of Article XI of the California Constitution authorizes local
13	governments to make and enforce laws not in conflict with California State law to protect
14	the health and safety of its citizens.
15	(b) All violations of the San Bernardino County Code are expressly declared
16	to be a public nuisance.
17	(c) Since the statewide legalization of recreational cannabis use, illegal
18	cultivation sites have expanded throughout the unincorporated areas of the County at
19	an exponential rate. These illegal cultivation sites have overwhelmed County resources
20	and negatively impacted the wellbeing of the County's citizens.
21	(d) The operators of the illegal cultivation sites regularly utilize certain
22	equipment and structures to facilitate the illegal cultivation of cannabis and these items
23	are critical to their operations. Furthermore, when these illegal cultivation sites are shut
24	down by County employees, the operators typically abandon these items leaving an
25	eyesore to the community. Thus, these items, when found at an illegal cannabis
26	cultivation site and observed being utilized for the illegal activity, are declared a public
27	nuisance subject to abatement and destruction.
28	(e) Pursuant to Government Code Section 25132, violations of a county

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1 ordinance are defaulted as a misdemeanor unless by ordinance it is made an infraction. 2 Currently all violations of Title 8 the (Development Code) of the San Bernardino County 3 Code, with limited exceptions, are classified as infractions which prevents the County 4 from prosecuting more egregious violations as misdemeanors. In order to provide 5 greater flexibility to the County to address more severe violations of the San Bernardino 6 County Code, reclassifying all violations of the Development Code as misdemeanors is 7 While a misdemeanor violation can always be charged as a lesser necessary. 8 infraction, a violation that is an infraction cannot be charged as a misdemeanor even 9 where the conduct and harm caused warrants such prosecution.

(f) Properly noticed public hearings have been held before the San
Bernardino County Planning Commission and the San Bernardino County Board of
Supervisors pursuant to the Planning and Zoning Law of the State of California and the
San Bernardino County Development Code.

14 (g) This ordinance is not subject to review under the California Environmental 15 Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, 16 sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably 17 foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) 18 (there is no possibility the activity in question may have a significant effect on the 19 environment). In addition to the foregoing general exemptions, the Board of 20 Supervisors further finds that the ordinance is categorically exempt from review under 21 CEQA pursuant to the Class 7 and Class 8 Categorical Exemptions, 14 California Code 22 of Regulations section 15308 (actions by regulatory agencies for protection of natural 23 resources) and section 15308 (regulatory activity to assure protection of the 24 environment). Each exemption stands as a separate and independent basis for 25 determining that this ordinance is not subject to CEQA.

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SECTION 2. Section 84.34.080 is added to Chapter 84.34, Division 4, Title 8 of
the San Bernardino County Code to read in its entirety as follows:

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1	84.34.080 Items Used To Facilitate Unlawful Cannabis Cultivation.
2	Items typically used to facilitate the unlawful cultivation of cannabis, when located
3	at a property confirmed to be cultivating cannabis in violation of this Chapter, are hereby
4	declared to be a public nuisance subject to abatement and discarding as provided by
5	this Code. For purposes of this Section, items typically used to facilitate the unlawful
6	cultivation of cannabis include, but are not limited to:
7	(a) Temporary structures in which cannabis cultivation is observed occurring
8	such as hoop houses, greenhouses, shade structures, sheds, gazebos, huts, and
9	similar facilities;
10	(b) Fencing or shielding actively used to conceal or obstruct view of cannabis
11	cultivation;
12	(c) Electrical equipment such as lights, fans, evaporation coolers, heating and
13	air-conditioning, irrigation pumps, well pumps, and generators that are being utilized to
14	grow cannabis; and,
15	(d) Irrigation systems including above-ground, subterranean, and/or drip
16	irrigation being utilized to cultivate cannabis.
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18	SECTION 3. Subsection (a) of Section 86.09.090 of the San Bernardino County
19	Code is amended to read in its entirety as follows:
20	86.09.090 Criminal Actions.
21	(a) Notwithstanding any other provision of the San Bernardino County Code,
22	each person violating, causing, or allowing a violation of any provision of this
23	Development Code or any permit or condition of approval granted pursuant thereto,
24	shall be guilty of an infractiona misdemeanor, unless the violation is specifically
25	declared to be a misdemeanoran infraction.
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27	SECTION 4. The Board declares that it would have adopted this Ordinance and
28	each section, subsection, sentence, clause, phrase, or portion of it irrespective of the

1	fact that any one or more sections, subsections, clauses, phrases or portions of it be
2	declared invalid and unconstitutional. If for any reason any portion of this Ordinance is
3	declared invalid or unconstitutional, then all other provisions of it shall remain valid and
4	enforceable.
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6	SECTION 5. This ordinance shall take effect thirty (30) days from the date of
7	adoption.
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9	CURT HAGMAN, Chairman
10	Board of Supervisors
11	
12	SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED
13	TO THE CHAIRMAN OF THE BOARD
14	LYNNA MONELL, Clerk of the
15	Board of Supervisors
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2	STATE OF CALIFORNIA)) 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 of said County and State, held on the day of, 2021, at which
6	meeting were present Supervisors:
7	and the Clerk, the foregoing ordinance was passed and adopted by the following vote,
8	to wit:
9	AYES: SUPERVISORS:
10	NOES: SUPERVISORS:
11	
12	ABSENT: SUPERVISORS:
13	IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this day of, 2021.
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15	LYNNA MONELL, Clerk of the Board of Supervisors of
16	San Bernardino County,
17	State of California
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19	Deputy
20	Approved as to Form:
21	STEVEN O'NEILL
22	Interim County Counsel
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24	
25	By: JOLENA E. GRIDER
26	Deputy County Counsel
27	Deter
28	Date: