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ordinance are defaulted as a misdemeanor unless by ordinance it is made an infraction. Currently all violations of Title 8 (Development Code) of the San Bernardino County Code, with limited exceptions, are classified as infractions which prevents the County from prosecuting more egregious violations as misdemeanors. In order to provide greater flexibility to the County to address more severe violations of the San Bernardino County Code, reclassifying all violations of the Development Code as misdemeanors is necessary. While a misdemeanor violation can always be charged as a lesser infraction, a violation that is an infraction cannot be charged as a misdemeanor even 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.

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

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:

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.

17
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 a misdemeanor, unless the violation is specifically declared to be an
25 infraction.

26
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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CURT HAGMAN, Chairman
Board of Supervisors

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

14 LYNNA MONELL, Clerk of the
15 Board of Supervisors

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

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
meeting were present Supervisors: _____

7
8 and the Clerk, the foregoing ordinance was passed and adopted by the following vote,
to wit:

9 AYES: SUPERVISORS:

10 NOES: SUPERVISORS:

11 ABSENT: SUPERVISORS:

12
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,
State of California

18
19 _____
Deputy

20 Approved as to Form:

21 STEVEN O'NEILL
22 Interim County Counsel

23
24 By: _____
25 JOLENA E. GRIDER
26 Deputy County Counsel

27 Date: _____
28