

**Attachment C – AN ORDINANCE
AMENDING THE SAN DIEGO ZONING
ORDINANCE RELATED TO DEFINITIONS,
MEDICAL MARIJUANA COLLECTIVE
FACILITIES, AND PROHIBITION OF
MARIJUANA FACILITIES – MEDICAL OR
NON-MEDICAL, AND ADDING SECTION
6861 RELATED TO NONCOMFORMING
CANNABIS FACILITIES (POD 21-001)
(STRIKE-OUT/UNDERLINE COPY)**

ORDINANCE NO. ____ (N.S.)

**AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING
ORDINANCE RELATED TO DEFINITIONS, MEDICAL MARIJUANA
COLLECTIVE FACILITIES, AND PROHIBITION OF MARIJUANA
FACILITIES – MEDICAL OR NON-MEDICAL, AND ADDING SECTION
6861 RELATED TO NONCONFORMING CANNABIS FACILITIES**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that the Zoning Ordinance should be updated by amending, adding, or removing various sections regarding Definitions, Nonconforming Cannabis Facilities, Medical Marijuana Collective Facilities, and Prohibition of Marijuana Facilities – Medical or Non-Medical. The Board finds that these amendments are reasonable and necessary for the public health, safety, convenience, and welfare.

Section 2. Section 1110 DEFINITIONS is amended to read as follows:

SEC. 1110. DEFINITIONS

~~Cannabis Marijuana~~ Facility – Medical and Non-Medical: (a) Any store, office, business, building, property or other facility in or from which ~~cannabis marijuana~~ is sold, given, traded, supplied, bartered, consumed, raised, processed, stored, used, cultivated indoors or outdoors, possessed, or transported; (b) This definition shall not apply to personal cultivation of cannabis allowed under state law, medical marijuana; (1) ~~by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, and no exchanges of marijunana or reimbursements for cannabis occur; and, (2) by a Primary Care Giver where the amount of marijuana at no time exceeds 1.5 times the amount allowed for a single Primary Care Giver under Health & Safety Code section 11362.77, and no exchanges of marijuana or reimbursements for marijuana occur.~~

Section 3. Section 6861 NONCONFORMING CANNABIS FACILITIES of the Zoning Ordinance is added to read as follows:

SEC. 6861. NONCONFORMING CANNABIS FACILITIES

a. Five Nonconforming Cannabis Facilities. Nonconforming Cannabis Facilities which were lawfully established before April 14, 2017, and documented by the Department include only facilities at the five following locations:

- 8157 Wing Ave, El Cajon, CA 92020 (APN 387-150-21-00)
- 736 Montecito Way, Ramona, CA 92065 (APN 281-521-13-00)
- 618 Pine St, Ramona, CA 92065 (APN 281-065-26-00)
- 1210 Olive St, Ramona, CA 92065 (APN 281-121-12-00)

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8530 Nelson Way, Escondido, CA 92026 (APN 127-222-19-00)

- b. Cannabis Activities. A Nonconforming Cannabis Facility may engage in Medical Cannabis Collective, Commercial Cannabis Microbusiness, or Commercial Cannabis Retailer activities as those terms are defined in Chapter 25 of Division 1 of Title 2 of the San Diego Code of Regulatory Ordinances. A Nonconforming Cannabis Facility operating as a Medical Cannabis Collective shall update its Operating Certificate before engaging in Commercial Cannabis Microbusiness or Commercial Cannabis Retailer activities.
- c. Operation and Construction. Each of the five Nonconforming Cannabis Facilities may do the following:
1. Continue Operation. Continue operations beyond April 14, 2022.
 2. Existing Facilities.
 - i. Repair, maintain, or alter existing structures.
 - ii. Add to one or more structures that were permitted before June 9, 2021, up to a cumulative total of 10,000 square feet in floor area.
 3. New Construction or Conversion of Small Structures.
 - i. Construct a structure that will not involve the use of significant amounts of hazardous substances and will not exceed 2,500 square feet in floor area.
 - ii. In urbanized areas, as is defined in Section 15387 of Title 14 of the California Code of Regulations, construct up to four commercial cannabis buildings that will not involve the use of significant amounts of hazardous substances and will not exceed a cumulative total of 10,000 square feet in floor area.
- d. Cumulative New Square Footage Limit. A Nonconforming Cannabis Facility may not build more than a cumulative total of 10,000 square feet of new floor area, either by an addition to an existing facility, new construction or conversion of small structures, or a combination thereof.
- e. Ministerial Building Permits. Repair, maintenance, alteration, addition to an existing structure, or construction of a new structure in accordance with this section and used for cannabis purposes shall require approval of a ministerial building permit. Nothing within this Zoning Ordinance shall exempt Nonconforming Cannabis Facilities from the requirements of the Grading Ordinance.
- f. Exemptions from Designators. Repair, maintenance, alteration, an addition to an existing structure, or construction of a new structure in accordance with this section and used for cannabis purposes shall be exempt from B and S Special Area Designators.

- g. Expansions Above Cumulative New Square Footage Limit. A Nonconforming Cannabis Facility may build more than a cumulative total of 10,000 square feet of new floor area, either by an addition to an existing facility, new construction or conversion of small structures, or a combination thereof, upon approval of a Site Plan. Expansions above the cumulative new square footage limit shall not be exempt from any Special Area Designators.
- h. No Visibility or Outdoor Use. Nonconforming Cannabis Facilities shall be designed, constructed, and operated such that no cannabis is visible from any location off the property on which a Nonconforming Cannabis Facility is located. All cannabis activities shall be enclosed within a building.
- i. Other Nonconforming Regulations. Nonconforming Cannabis Facilities are not subject to any other nonconforming regulations outlined in the Zoning Ordinance.
- j. Change to Conforming Use. A Nonconforming Cannabis Facility may change its use to a non-cannabis related conforming use. A Nonconforming Cannabis Facility shall transition to a conforming cannabis facility upon the County adopting regulations making cannabis activities a conforming use.

Section 4. Section 6935 MEDICAL MARIJUANA COLLECTIVE FACILITIES of the Zoning Ordinance shall be removed in its entirety:

~~SEC. 6935. MEDICAL MARIJUANA COLLECTIVE FACILITIES~~

~~Amortization of Nonconforming Medical Marijuana Collective Facilities. Notwithstanding Section 6852, a nonconforming Collective Facility which was lawfully established before April 14, 2017 shall cease operations no later than April 14, 2022. In order for a Collective Facility to be “lawfully” established it must have applied for and obtained a building permit and/or a certificate of occupancy and Sheriff’s Operating Certificate prior to commencing operations, or received County approval of a vested right to continue under previous regulations. The Collective Facility may apply for one six month extension of this period. The Director may grant that extension upon determining that the operator would be subjected to unreasonable financial hardship if forced to cease operations, considering (1) the term of any applicable lease for the premises and whether it may be modified or terminated; (2) the non-recoverable costs of any improvements that would only be of use to the Collective Facility; (3) the profits which have been received during the period from April 14, 2017 to April 14, 2022, and (4) the potential for other conforming uses to locate on the site.~~

~~Any nonconforming medical marijuana collective facility shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.~~

Section 5. Section 6976 PROHIBITION OF MARIJUANA FACILITIES MEDICAL OR NON-MEDICAL of the Zoning Ordinance are amended to read as follows:

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SEC. 6976. PROHIBITION OF CANNABIS~~MARIJUANA~~ FACILITIES – MEDICAL OR NON-MEDICAL

No person shall cause or permit the establishment, ~~operation, enlargement or transfer of ownership~~ of a Cannabis ~~Facility of marijuana~~ for medical or non-medical purposes, meeting the definition "Cannabis~~Marijuana~~ Facility – Medical and Non-Medical" in Section 1110, which was not lawfully established before April 14, 2017. To the maximum extent allowed by state law this prohibition shall apply throughout all use regulations.

Section 6. Effective Date and Publication. This ordinance shall take effect and be in force thirty (30) days after its adoption. Fifteen days after the date of adoption of this ordinance, a summary shall be published once with the names of the members of the Board voting for and against it in a newspaper of general circulation published in County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

By: Justin Crumley, Senior Deputy County Counsel