

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
WEDNESDAY, JANUARY 27, 2021**

MINUTE ORDER NO. 4

SUBJECT: FRAMEWORK FOR OUR FUTURE: MEASURES TO PROVIDE ECONOMIC ACCESS AND EQUITY IN THE CANNABIS INDUSTRY (DISTRICTS: ALL)

OVERVIEW

Californians overwhelmingly voted to allow both adult use and medical cannabis, but the Board of Supervisors has blocked access. There is currently no pathway for adult use cannabis access in the unincorporated area, and the five existing medical cannabis facilities have been ordered to close by 2022. Under the current regime approved by the Board in 2017, no new permits for medical cannabis facilities can be issued. Without any process for obtaining a permit, illegal and unlicensed dispensaries have been in operation all throughout San Diego County. As a result, the San Diego County Sheriff's Department has been engaged in a continuing cycle of shutting down various storefronts, only for the same business to re-open the following week. We must make changes.

Cannabis represents a new economic opportunity for our communities and residents, which is necessary during the pandemic-induced recession. Cannabis industry provides new direct and indirect jobs, from farming and manufacturing to testing and retail sales. Cannabis also provides an opportunity to advance social equity in our communities. The overcriminalization of Black and Brown communities for cannabis crimes is an injustice that needs to be addressed in our region.

Our board letter proposes changes to bring our region in line with the will of San Diego voters. Today's action would direct Planning & Development Services to develop Zoning Ordinances that allow for a suite of uses, including retail, cultivation, manufacturing, distribution, testing, or a combination of these uses through a microbusiness license, as well as repeal County Zoning Ordinance Sections 6935 (Medical Marijuana Collective Facilities) and 6976 (Prohibition of Marijuana Facilities - Medical or Non-Medical).

We are also asking the Chief Administrative Officer to develop a new Cannabis Permitting Program for the County of San Diego that will include numerous elements to prioritize social equity, access and business opportunities. A Social Equity Program will help rectify the injustices caused by the War on Drugs and be in place prior to the issuance of the first permit. To spur economic recovery, Labor Peace Agreements will be required for every tenth employee at a given cannabis facility. We have asked for ingestible cannabis products to be sold in the unincorporated area. Onsite consumption of cannabis products should be an allowable use. Staff will bring in an expert to research cannabis taxation opportunities and provide recommendations to the Board.

We can also look internally at County operations. Revisions to County hiring practices would remove cannabis as one of the drugs tested for during the pre-employment screening process for certain employee classes.

We are requesting that these components be developed concurrently to create a comprehensive cannabis program, with an initial report back in 90 days including any regulatory changes that can be implemented within that time and return back to the Board with final ordinances and policies within 180 days.

RECOMMENDATION(S)

CHAIR NATHAN FLETCHER AND VICE-CHAIR NORA VARGAS

A. Find that the proposed actions are not subject to the California Environmental Quality Act (CEQA) as specified under Sections 15060(c)(3) and 15378 of the CEQA Guidelines.

B. Direct the Chief Administrative Officer to:

1. Develop Zoning Ordinances that would allow for the following:
 - a. Cannabis Retail allowed in areas zoned commercial and industrial.
 - b. Cannabis Cultivation allowed in areas zoned for agriculture.
 - c. Cannabis Manufacturing allowed in areas zoned for industrial.
 - d. Cannabis Distribution allowed in areas zoned for industrial.
 - e. Cannabis Testing allowed in areas zoned for industrial.
 - f. Cannabis Microbusiness license in areas zoned for agriculture, commercial or industrial.
 - g. Setbacks of 600 feet from a qualifying “sensitive use” as described in Section 5026 of the California Code of Regulations, Title 16, Division 42, or any successor or amended section, that is operational at the time of the application.
 - h. Repeal County Zoning Ordinance Sections 6935 (Medical Marijuana Collective Facilities) and 6976 (Prohibition of Marijuana Facilities - Medical or Non-Medical).
2. Develop amendments to the County of San Diego Regulatory Code Sections 21.2501 and 21.2503 (a) and develop a new cannabis permitting system that:
 - a. Allows existing and new Medicinal and/or Adult Use cannabis facilities to obtain a County operating permit for one of the following permit categories: Retail (Storefront and/or Non-Storefront), Cultivation, Manufacturing, Distribution, and Testing; or a County operating permit for a Microbusiness license.
 - b. Contains a “Social Equity Program” that provides individuals with past cannabis arrests and/or convictions, and those that were low income and lived in high arrest communities or “Disproportionately Impacted Areas” by providing such individuals with greater opportunities to secure a County operating permit, and is in place prior to the issuance of a County operating permit.
 - c. Requires the issuance of Labor Peace Agreements for every tenth employee.
 - d. Follows all applicable State laws and regulations.
3. Allow for the sale of ingestible cannabis products, including edible and drinkable products.
4. Allow for onsite consumption of cannabis products at specific cannabis facilities and at permitted events.
5. Engage a consultant to advise the County on cannabis tax options.
6. Conduct robust stakeholder outreach to help develop all recommendations, and explore program components such as the Social Equity Program, onsite consumption, and the permitting program, including engaging with social and racial justice advocates, farmers, and potential cannabis permit holders.

7. Provide any staffing necessary to support the issuance and management of the cannabis permits and the Social Equity Program.
 8. Secure grant funding to support implementation of the Social Equity Program.
- C. Direct the Chief Administrative Officer to revise the County of San Diego Drug and Alcohol Use Policy (Policy C-25) to exclude cannabis from the medical pre-screening process under Section E “Applicants for County Employment,” except for safety sensitive positions and employees covered under the Omnibus Transportation Employee Testing Act of 1991.
- D. Establish appropriations of \$485,000 in the Department of Planning & Development Services, Services & Supplies for consultant services for the ordinance and program development of a Cannabis Permitting Program based on available prior year General Fund fund balance. **(4 VOTES)**
- E. Report back to the Board in 90 days with an update including any regulatory changes that can be implemented within that time, and return back to the Board with final ordinances and policies within 180 days.

FISCAL IMPACT

Funds for this request are not included in the Fiscal Year (FY) 2020-21 Operational Plan in the Department of Planning & Development Services (PDS). If approved, this request will result in costs of \$485,000 in PDS for consultant services for the ordinance and program development of a Cannabis Permitting Program. The funding source is available prior year General Fund fund balance. Future on going costs of the program will be determined by future Board actions based on information and recommendations contained the report due in 180 days, including potential costs and revenue associated with implementation. County staff will return to the Board with estimates and recommended budget actions as necessary.

BUSINESS IMPACT STATEMENT

Today’s action supports small businesses by allowing cannabis facilities to access permits to operate in the County and expand their businesses.

ACTION:

ON MOTION of Supervisor Fletcher, seconded by Supervisor Vargas, the Board of Supervisors took the following actions:

- A. Found that the proposed actions are not subject to the California Environmental Quality Act (CEQA) as specified under Sections 15060(c)(3) and 15378 of the CEQA Guidelines.
- B. Directed the Chief Administrative Officer to:
 1. Develop Zoning Ordinances that would allow for the following:
 - a. Cannabis Retail allowed in areas zoned commercial and industrial.
 - b. Cannabis Cultivation allowed in areas zoned for agriculture.
 - c. Cannabis Manufacturing allowed in areas zoned for industrial.
 - d. Cannabis Distribution allowed in areas zoned for industrial.
 - e. Cannabis Testing allowed in areas zoned for industrial.
 - f. Cannabis Microbusiness license in areas zoned for agriculture, commercial or industrial.

- g. Setbacks of 600 feet from a qualifying “sensitive use” as described in Section 5026 of the California Code of Regulations, Title 16, Division 42, or any successor or amended section, that is operational at the time of the application, including an analysis to consider, as part of a data driven process, to allow setbacks of up to 1,000 feet from a qualifying “sensitive use.”
 - h. Repeal County Zoning Ordinance Sections 6935 (Medical Marijuana Collective Facilities) and 6976 (Prohibition of Marijuana Facilities - Medical or Non-Medical).
2. Develop amendments to the County of San Diego Regulatory Code Sections 21.2501 and 21.2503 (a) and develop a new cannabis permitting system that:
 - a. Allows existing and new Medicinal and/or Adult Use cannabis facilities to obtain a County operating permit for one of the following permit categories: Retail (Storefront and/or Non-Storefront), Cultivation, Manufacturing, Distribution, and Testing; or a County operating permit for a Microbusiness license.
 - b. Contains a “Social Equity Program” that provides individuals with past cannabis arrests and/or convictions, and those that were low income and lived in high arrest communities or “Disproportionately Impacted Areas” by providing such individuals with greater opportunities to secure a County operating permit, and is in place prior to the issuance of a County operating permit.
 - c. Requires the issuance of Labor Peace Agreements after the tenth employee.
 - d. Follows all applicable State laws and regulations.
 - e. Allow for the sale of ingestible cannabis products, including edible and drinkable products.
 - f. Allow for onsite consumption of cannabis products at specific cannabis facilities and at permitted events.
 3. Engage a consultant to advise the County on cannabis tax options.
 4. Conduct robust stakeholder outreach to help develop all recommendations, and explore program components such as the Social Equity Program, onsite consumption, and the permitting program, including engaging with social and racial justice advocates, farmers, and potential cannabis permit holders.
 5. Provide any staffing necessary to support the issuance and management of the cannabis permits and the Social Equity Program.
 6. Secure grant funding to support implementation of the Social Equity Program.
- C. Directed the Chief Administrative Officer to revise the County of San Diego Drug and Alcohol Use Policy (Policy C-25) to exclude cannabis from the medical pre-screening process under Section E “Applicants for County Employment,” except for safety sensitive positions and employees covered under the Omnibus Transportation Employee Testing Act of 1991.
 - D. Established appropriations of \$485,000 in the Department of Planning & Development Services, Services & Supplies for consultant services for the ordinance and program development of a Cannabis Permitting Program based on available prior year General Fund fund balance. (4 VOTES)
 - E. Report back to the Board in 90 days with an update including any regulatory changes that can be implemented within that time, and return back to the Board with final ordinances and policies within 180 days.

- F. Established appropriations of \$500,000 for immediate and aggressive enforcement by the San Diego County Sheriff's Office and/or Code Enforcement of unlicensed, illegal dispensaries, labs, or any related operating facilities.
- G. Directed the Chief Administrative Officer to return to the Board with an analysis and recommendations for ongoing, long-term enforcement options.

AYES: Vargas, Anderson, Lawson-Remer, Fletcher
NOES: Desmond

State of California)
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.



ANDREW POTTER
Clerk of the Board of Supervisors

