

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
WEDNESDAY, MARCH 15, 2017**

MINUTE ORDER NO. 2

**SUBJECT: NOTICED PUBLIC HEARING:
SAN DIEGO COUNTY CODE AND ZONING ORDINANCE
AMENDMENTS BANNING MEDICAL AND NON-MEDICAL
MARIJUANA FACILITIES AND EXTENDING A MORATORIUM ON
THE ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE
FACILITIES (DISTRICTS: ALL)**

OVERVIEW:

This is a request for the Board of Supervisors (Board) to consider proposed amendments to the San Diego County Code of Regulatory Ordinances (County Code) and the Zoning Ordinance related to Medical Marijuana Facilities. On January 25, 2017 (1), the Board directed staff to return with Ordinance Amendments to prohibit and ban medical and non-medical marijuana facilities within the unincorporated County of San Diego (County). Staff has prepared amendments to amend existing language in the County Code and amend and repeal the Zoning Ordinance; to add language prohibiting medical and non-medical marijuana facilities; and to update the amortization requirements applicable to non-conforming medical marijuana collective facilities.

These changes would result in a local ban within the unincorporated area on medical and non-medical marijuana facilities, including both non-profit and for-profit facilities. Recently adopted State laws permit local jurisdictions to ban both medical and non-medical marijuana facilities. These amendments do not preclude the private use of medical and non-medical marijuana as allowed by State law.

The proposed Zoning Ordinance changes, if adopted, may cause three existing medical marijuana collective facilities and two other vested facilities to become non-conforming uses since they would no longer be allowed in the County. If this were the case, the non-conforming medical marijuana collective facilities would need to cease operations within five years of the effective date of the ban ordinance with one possible six month extension.

On April 27, 2016 (2), the Board extended the interim urgency moratorium ordinance prohibiting the establishment of new medical marijuana collective facilities until March 16, 2017 (Ordinance No. 10426). This action also includes, for the Board's consideration, an extension of the interim urgency moratorium ordinance (Attachment C) which, if adopted, would extend the interim urgency moratorium ordinance for an additional year to March 15, 2018. If the Board adopts the ordinance changes, the moratorium will remain in effect only until the Zoning Ordinance banning medical and non-medical facilities becomes effective.

FISCAL IMPACT:

N/A

BUSINESS IMPACT STATEMENT:

N/A

RECOMMENDATION:

PLANNING COMMISSION

On February 10, 2017, the Planning Commission made the following recommendations to the Board:

1. Find that the proposed Zoning Ordinance amendments comply with the California Environmental Quality Act (CEQA) and County CEQA Guidelines because the amendments can be found exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines (Attachment H).
2. Adopt the attached Form of Ordinance (Attachment D1):
AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO AMEND THE MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS.
3. Find that the proposed Zoning Ordinance amendments comply with the California Environmental Quality Act (CEQA) and County CEQA Guidelines because the amendments can be found exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines (Attachment H).
4. Adopt the attached Form of Ordinance (Attachment D1):
AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO AMEND THE MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS.

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Planning & Development Services (PDS) does not concur with the Planning Commission recommendations and requests that the Board:

On March 15, 2017:

1. Find that the proposed Zoning Ordinance amendments comply with CEQA and County CEQA Guidelines because the amendments can be found exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines (Attachment F).
2. Find that the proposed Moratorium Ordinance Extension is not a project as defined by CEQA, pursuant to Section 15060(c)(3) and 15378 of the State CEQA Guidelines (Attachment G).

3. Approve the introduction of the proposed San Diego County Code amendments Ordinance (first reading), read title and waive further reading of the following ordinance (Attachment A1):

AN ORDINANCE AMENDING SECTIONS 21.2501 AND 21.2503(a) OF THE SAN DIEGO COUNTY REGULATORY ORDINANCES RELATING TO THE ISSUANCE OF MEDICAL MARIJUANA COLLECTIVE FACILITIES OPERATING CERTIFICATES.
4. Adopt the attached Form of Ordinance (Attachment B1):

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE REPEALING MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS AND BANNING MEDICAL AND NON-MEDICAL MARIJUANA FACILITIES.
5. If the Board chooses, adopt the attached Form of Ordinance (Attachment C):

AN ORDINANCE EXTENDING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE FACILITIES AND DECLARING THE URGENCY THEREOF, TO TAKE EFFECT IMMEDIATELY **(4 VOTES)**.

If, on March 15, 2017, the Board takes action on recommendation Item 3 above, then, on March 22, 2017:

1. Find that the proposed San Diego County Code Ordinance amendments comply with the CEQA and County CEQA Guidelines because the amendments can be found exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines (Attachment E).
2. Adopt the Ordinance (Attachment A1) entitled:

AN ORDINANCE AMENDING SECTIONS 21.2501 AND 21.2503(a) OF THE SAN DIEGO COUNTY REGULATORY ORDINANCES RELATING TO THE ISSUANCE OF MEDICAL MARIJUANA COLLECTIVE FACILITIES OPERATING CERTIFICATES (second reading).

2.1 ACTION:

ON MOTION of Supervisor Horn, seconded by Supervisor Gaspar, the Board closed the Hearing and took the following action:

1. Found that the proposed Zoning Ordinance amendments comply with CEQA and County CEQA Guidelines because the amendments can be found exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines (Attachment F).
2. Approved the introduction of the proposed San Diego County Code amendments Ordinance for further Board consideration and adoption on March 22, 2017.

3. Adopted Ordinance No. 10461 (N.S.) entitled:
AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING
ORDINANCE REPEALING MEDICAL MARIJUANA COLLECTIVE
FACILITY REGULATIONS AND BANNING MEDICAL AND NON-
MEDICAL MARIJUANA FACILITIES.

AYES: Jacob, Gaspar, Horn

NOES: Cox, Roberts

2.2 ACTION:

ON MOTION of Supervisor Horn, seconded by Supervisor Gaspar, the Board took the following action:

1. Found that the proposed Moratorium Ordinance Extension is not a project as defined by CEQA, pursuant to Section 15060(c)(3) and 15378 of the State CEQA Guidelines (Attachment G).
2. Ordinance No. 10462 (N.S.) entitled:
AN ORDINANCE EXTENDING A MORATORIUM ON THE
ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE
FACILITIES AND DECLARING THE URGENCY THEREOF, TO TAKE
EFFECT IMMEDIATELY.

AYES: Cox, Jacob, Gaspar, Horn


NOES: Roberts

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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.

DAVID HALL
Clerk of the Board of Supervisors

By 
Marvice E. Mazyck, Chief Deputy

