

NOTICE OF EXEMPTION

TO: Recorder/County Clerk
Attn: James Scott
1600 Pacific Highway, M.S. A33
San Diego, CA 92101

FROM: County of San Diego
Planning & Development Services, M.S. O650
Attn: Project Planning Division Section Secretary

SUBJECT: **FILING OF NOTICE OF EXEMPTION IN COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 21108 OR 21152**

Project Name: COUNTY CODE OF REGULATORY ORDINANCES AND ZONING ORDINANCE CHANGES FOR EXISTING CANNABIS DISPENSARIES (PDS-1017502-CANNABIS ORD DEV/ PDS2021-POD-21-001)

Project Location: Regulatory Code and Zoning Ordinances will be applicable in the unincorporated County of San Diego, but their affect will be limited to the five existing Medical Marijuana Collective Facilities (existing dispensaries), which reside within the Second and Fifth Supervisorial Districts. Names and locations of the five existing dispensaries are as follows:

Outliers Collective	8157 Wing Ave, El Cajon
Ramona Cannabis Co	736 Montecito Way, Ramona
Relief Meds	618 Pine St, Ramona
Olive Tree Wellness Center/JAXX Cannabis	1210 Olive St, Ramona
San Diego Natural/OutCo	8530 Nelson Way, Escondido

Project Applicant: County of San Diego, Planning and Development Services Address: 5510 Overland Avenue, Suite 310, San Diego, CA 92123

Project Description: The County of San Diego (County) is taking steps to improve access to legal cannabis in the unincorporated areas via Regulatory Code of Ordinances (Regulatory Code) and Zoning Ordinance updates that will affect five existing dispensaries currently operating within the unincorporated area. This project is to make changes to the County Regulatory Code and Zoning Ordinance to (1) allow for five existing medical marijuana dispensaries to continue to operate past the "sunset" date of April 14, 2022, (2) allow for commercial medical and commercial adult use cannabis sales, (3) allow for building alterations and expansions up to 10,000 square feet through a ministerial building permit process, (4) exempt building alterations and expansions from the requirements of B Designator Community Design Review and S Designator Scenic, (5) allow the transfer of Operating Certificates from existing Operating Certificate holders to others, (6) allow the sale of edible and drinkable cannabis products, and (7) allow the sale of branded merchandise.

Agency Approving Project: County of San Diego

County Contact Person: Scott Christman Telephone Number: (858) 505-6677

Date Form Completed: October 6, 2021

This is to advise that the County of San Diego Board of Supervisors has approved the above-described project on October 6, 2021, and found the project to be exempt from the CEQA under the following criteria:

1. Exempt status and applicable section of the CEQA ("C") and/or State CEQA Guidelines ("G"): (check only one)

- Declared Emergency [C 21080(b)(3); G 15269(a)]
- Emergency Project [C 21080(b)(4); G 15269(b)(c)]
- Statutory Exemption. C Section:
- Categorical Exemption. G Section: 15301, 15303, 15304
- G 15061(b)(3) - It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and the activity is not subject to the CEQA.
- G 15182 - Residential Projects Pursuant to a Specific Plan
- G 15183 - Projects Consistent with a Community Plan, General Plan, or Zoning
- Activity is exempt from the CEQA because it is not a project as defined in Section 15378.

2. Mitigation measures were not made a condition of the approval of the project.

3. A Mitigation reporting or monitoring plan was not adopted for this project.

Statement of reasons why project is exempt: The proposed action complies with CEQA because it is: (1) categorically exempt under Section 15301 of the CEQA Guidelines, Existing Facilities, as it involves five existing facilities with negligible or no expansion of existing or former use and additions to the existing structures will not result in an increase of more than

10,000 square feet each and the existing facilities are in areas where all public services and facilities are available to allow for maximum development permissible in the General Plan, and the areas in which the existing facilities are located are not environmentally sensitive; (2) categorically exempt under Section 15303 of the CEQA Guidelines, New Construction or Conversion of Small Structures, as it involves (a) construction and location of limited numbers of new, small commercial facilities or structures that will not involve the use of significant amounts of hazardous substances, and not exceed 2,500 square feet in floor area and/or (b) in urbanized areas, up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use and will not involve the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive and/or (c) construction of accessory (appurtenant) structures; (3) categorically exempt under Section 15304, Minor Alterations to Land, as the project could involve minor alteration in the condition of the land, water and/or vegetation which do not involve removal of healthy, mature, or scenic trees; and (4) there are no unusual circumstances or other applicable exceptions to the exemptions and no features that would distinguish this project that would constitute unusual circumstances.

The following is to be filled in only upon formal project approval by the appropriate County of San Diego decision-making body.

Signature:  Telephone: 858-505-6677
Name (Print): SCOTT CHRISTMAN Title: GROUP PROGRAM MANAGER

This Notice of Exemption has been signed and filed by the County of San Diego.

This notice must be filed with the Recorder/County Clerk as soon as possible after project approval by the decision-making body. The Recorder/County Clerk must post this notice within 24 hours of receipt and for a period of not less than 30 days. At the termination of the posting period, the Recorder/County Clerk must return this notice to the Department address listed above along with evidence of the posting period. The originating Department must then retain the returned notice for a period of not less than twelve months. Reference: CEQA Guidelines Section 15062.

EXHIBIT A

The proposed action complies with the California Environmental Quality Act (CEQA) and State and County CEQA Guidelines because the action is: (1) categorically exempt under Section 15301 of the CEQA Guidelines, Existing Facilities, as it involves five existing facilities with negligible or no expansion of existing or former use and additions to the existing structures will not result in an increase of more than 10,000 square feet each and the existing facilities are in areas where all public services and facilities are available to allow for maximum development permissible in the General Plan, and the areas in which the existing facilities are located are not environmentally sensitive; (2) categorically exempt under Section 15303 of the CEQA Guidelines, New Construction or Conversion of Small Structures, as it involves (a) construction and location of limited numbers of new, small commercial facilities or structures that will not involve the use of significant amounts of hazardous substances, and not exceed 2,500 square feet in floor area and/or (b) in urbanized areas, up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use and will not involve the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive and/or (c) construction of accessory (appurtenant) structures; and (3) categorically exempt under Section 15304, Minor Alterations to Land, as the project could involve minor alteration in the condition of the land, water and/or vegetation which do not involve removal of healthy, mature, or scenic trees.

The Project is not subject to any of the exceptions to the categorical exemptions listed in Section 15300.2 of the State CEQA Guidelines as it (1) will not impact environmental resources of hazardous or critical concern that are designated, precisely mapped and officially adopted by government agencies; (2) will not have a significant effect on the environment due to unusual circumstances; (3) will not contribute to cumulative environmental impact; (4) will not damage scenic resources within a designated state scenic highway; (5) is not on the list of Hazardous Waste and Substance Sites pursuant to Section 65962.2 of the Government Code; and (6) will not cause adverse change in the significance of a historical resource.

Section 21084 of the Public Resources Code requires the CEQA Guidelines to include a list of classes of projects which have been determined to not have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. PDS Staff has determined the project is categorically exempt pursuant to 15301 Class 1, Existing Facilities, pursuant to Section 15303 Class 3, New Construction or Conversion of Small Structures, and pursuant to Section 15304 Class 4, Minor Alterations to Land for the reasons described below.

Categorical Exemption: Section 15301 – Existing Facilities

Section 15301 of the CEQA Guidelines entails changes to existing facilities. As stated in the CEQA Guidelines, the key consideration for applying this exemption is whether the project involves negligible or no expansion of use. Section 15301 lists six different examples of the projects that would be expected to fall within Class 1. However, the types of "existing facilities" itemized within Class 1 are not intended to be all-inclusive of the types of projects which may fall within the class. The following are some examples listed in Section 15301:

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of use.

Examples include but are not limited to:

- Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
- Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;
- Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes).
- Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;
- Additions to existing structures provided that the addition will not result in an increase of more than:
 - 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
 - 10,000 square feet if:
 - The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and
 - The area in which the project is located is not environmentally sensitive.

CEQA exemption Section 15301, Class 1, applies to this proposed project as the project consists of changing the Regulatory Code and Zoning Ordinance as it applies to five existing Marijuana Dispensaries. The five existing facilities affected by the proposed project are zoned as follows:

- 8157 Wing Ave. Lakeside, Zone: M54 - General Impact Industrial Use, Land Use: Medium Impact Industrial, Designator: C (Current Use: Dispensary/ Indoor Cultivation)
- 1210 Olive Street, Ramona, Zone: M54 - General Impact Industrial Use, Land Use: High Impact Industrial, Designator: B/C (Current Use: Dispensary)
- 618 Pine Street, Ramona, Zone: M52 - Limited Impact Industrial Use, Land Use: Limited Impact Industrial, DESIGNATORS: B, C, POR S, (Current Use: Dispensary)
- 736 Montecito Way in Ramona, Zone: M54 - General Impact Industrial Use, Land Use: High Impact Industrial, Designator: B/C (Current Use: Dispensary)
- 8530 Nelson Way, Escondido, Zone: M52 - Limited Impact Industrial Use, Land Use: Limited Impact Industrial, Designator: B, (Current Use: Dispensary)

The Land Use Designation for the project sites in the General Impact Industrial Use (M54) Zone include both "Medium" and "High Impact Industrial," which are allowed in this zone pursuant to the County of San Diego Zoning Ordinance. The M54 zoning designation is intended to create and preserve areas where manufacturing and industrial uses not having high nuisance characteristics may locate. Non-industrial uses which support industrial uses are permitted within the zone, particularly administrative, sales, and services uses. Typically, the M54 Use Regulations would be applied near rail and trucking facilities, or other locations where impacts associated with noise, odor and traffic would not impact on residential or commercial areas. All outdoor storage areas would be subject to screening regulations in Section 6706. Various applications of the M54 Use Regulations with appropriate development designators can create a large transportation-dependent industrial center or a small, geographically isolated grouping of a few small scale industrial uses. All Project uses fit within the intended applications of the M54 Use areas.

The Land Use Designation for the project sites in the Limited Impact Industrial Use M52 Zone includes "Limited Impact Industrial," which are allowed in this zone pursuant to the County of San Diego Zoning Ordinance. The M52 zoning designation is intended to create and preserve areas where manufacturing and industrial uses which evidence no or very low nuisance characteristics may locate. Non-industrial uses which support or are adjuncts to industrial uses and are compatible with such uses are permitted within the zone—this particularly includes administrative, sales, and services uses. Typically, the M52 Use Regulations would be applied in urban or suburban areas where nuisance characteristics involving noise, odor, traffic generation or unsightliness were undesired and where all uses (with certain exceptions) would be conducted entirely within enclosed buildings. In the case of this Project and the five existing dispensaries, all uses will be conducted within enclosed buildings.

The Project, as proposed, is limited to continued operation and limited expansions of five existing facilities. The continued operation and limited expansion will be substantially similar to the existing use and this project is categorically exempt under Section 15301 because it involves five existing facilities with negligible or no expansion of existing or former use and

additions to the existing structures, if any, will not result in an increase of more than 10,000 square feet each. The existing facilities are in areas where all public services and facilities are available to allow for maximum development permissible in the General Plan; in areas in which the existing facilities are located are not environmentally sensitive; are not cumulative impacts of successive projects of the same type in the same place over time; will not result in impacts to scenic highways or historical resources, and do not present any significant effects on the environment due to unusual circumstances.

Categorical Exemption; Section 15303, New Construction or Conversion of Small Structures

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

- A store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

CEQA exemption Section 15303, Class 3, applies to this proposed project as the project consists of changing the Regulatory Code and Zoning Ordinance to allow the five existing dispensaries to, among other things, alter and expand their facilities up to 10,000 square feet through a ministerial building permit process. The existing dispensaries' expansions may consist of construction and location of limited numbers of new, small facilities or structures, installation of small new equipment and facilities in small structures, or the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure and may be accessory (appurtenant) structures or similar structures to a store, motel, office, or restaurant.

The Project, as proposed, is limited to continued operation and limited expansions of five existing facilities. The continued operation and limited expansion will not involve use of significant amounts of hazardous substance and not exceed 2,500 square feet in floor area in non-urbanized areas. In urbanized areas, the continued operation and limited expansion will not exceed 10,000 square feet and be on sites zoned for such uses, not involve the use of significant amounts of hazardous substances where all necessary public services and facilities are available, and where the surrounding area is not environmentally sensitive. The Project, as proposed, is limited to continued operation and limited expansions of five existing facilities and is categorically exempt under Section 15303.

Categorical Exemption; Section 15304 – Minor Alterations to Land

Section 15304 of the CEQA Guidelines involves minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Examples of these types of Class 4 projects listed in Section 15304 this exemption include, but are not limited to:

- Grading on land with a slope of less than 10% and not in a waterway, wetland, designated scenic area, or official areas of geologic hazard.
- New Gardening or Landscaping, including the replacement of existing conventional landscaping with water resistant or fire efficient landscaping.
- Minor temporary use of land having negligible or no permanent effects on the environment.
- Minor trenching or backfilling where the surface is restored.

CEQA exemption Section 15304, Class 4, applies to this proposed project as the project consists of changing the Regulatory Code and Zoning Ordinance to allow the five existing dispensaries to, among other things, alter and expand their facilities. The existing dispensaries may choose to make only minor alterations to their land such as new landscaping or minor trenching, as part of the ancillary action which are allowed, or may choose to use their land in a temporary manner with no effects on the environment (Section 15304 cites carnivals as an example of this type of use).

Section 15300.2 – Exceptions

The proposed project was reviewed for the exceptions outlined in the CEQA Guidelines, Section 15300.2 (a – f) to determine if there are any reasons a project may not be considered categorically exempt under any of the following classes or projects (Section 15300 et al.). The project would be consistent with Section 15301, Class 1, and Section 15303, Class 3. None of the exceptions to the exemptions apply (Section 15300.2 of the CEQA Guidelines), as is described in the following paragraphs:

15300.2(a) – Location: The CEQA categorical exemptions identified for the proposed project are Class 1 (Section 15301, Existing Facilities), Class 3 (Section 15303, New Construction or Conversion of Small Structures), and Class 4 (Section 15304, Minor Alterations to Land). Class 1 is not qualified by consideration of where the project is to be located. Class 3 and Class 4 are qualified by consideration of where the project is to be located—a project that is ordinarily insignificant in

its impact on the environment may in a particularly sensitive environment be significant. The five existing dispensaries that would be covered by the changes to the Regulatory Code and Zoning Ordinances (the Project) are not located within particularly sensitive environments. As previously stated, the dispensaries are located in Limited, Medium, and High Impact Industrial Use zones and the proposed project will not impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

15300.2(b) – Cumulative Impact: A categorical exemption may not be used where the cumulative impact of successive projects of the same type in the same place, over time is significant. This project is limited to five existing dispensaries that have been in operation at their current locations for several years and does not affect new dispensaries elsewhere in the County. The total new floor area, either by addition to an existing dispensary or by constructing a new building or both, is capped at 10,000 square feet at each dispensary. For an existing dispensary to add more than 10,000 square feet of new floor area would require a discretionary permit and environmental review under CEQA. Therefore, successive projects of the same type at the five existing dispensaries are limited and successive projects of the same type elsewhere in the unincorporated area are disallowed.

15300.2(c) – Significant Effect: A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Here, there are no unusual circumstances. In 1996, California voters passed Proposition 215, or the Compassionate Use Act (CUA) to allow medicinal-use cannabis for patients with medical recommendations from their physicians. In 2010, the County amended its Zoning Ordinance and Regulatory Code to implement the CUA. Therefore, medical cannabis has been allowed in the state for twenty-four years and allowed in the unincorporated area for eleven years. As stated above, the project does not permit new dispensaries in the unincorporated area, and the five existing dispensaries have all been in operation for over four years in their current locations. In November 2016, California voters passed Proposition 64, or the Adult Use of Marijuana Act (AUMA). The AUMA legalized recreational cannabis for individuals over the age of 21. The act also permitted regulated businesses to sell cannabis beginning January 1, 2018. Since that time, eight incorporated cities within the County, including the City of San Diego, have adopted programs to allow for adult use cannabis sales. The state has issued 63 cannabis licenses for retail and/or microbusinesses serving adult use and/or medicinal use types for clients in the incorporated and unincorporated areas of the County. Also, the existing five dispensaries are located in zones that permitted marijuana dispensaries, and similar commercial uses, and there is nothing unusual about these particular uses or locations. Furthermore, the ordinance amendments ensure all cannabis activities will be conducted inside buildings and no cannabis will be visible from outside of each property. Therefore, there is no reasonable possibility of significant impacts due to unusual circumstances.

15300.2(d) – Scenic Highways: A categorical exemption may not be used when a project may result in damage to scenic resources, including but not limited to, trees, historical buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. State scenic highways refer to those highways that are officially designated by the California Department of Transportation (Caltrans) as scenic (Caltrans – California Scenic Highway Program). No Scenic Highways designated by Caltrans are in proximity of the project sites. Therefore, the project would not cause a significant impact to scenic resources within a highway officially designated as a state scenic highway.

15300.2(e) – Hazardous Waste Sites: A categorical exemption may not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. All of the five existing facilities have been developed. The sites have not been used for any use type which would authorize the handling of hazardous waste materials and is not included on any list compiled pursuant to Section 65962.5 of the Government Code. No potential significant impacts due to hazardous waste sites would occur due to the proposed project.

15300.2(f) – Historical Resources: A categorical exemption may not be used for a project which may cause a substantial adverse change in the significance of a historical resource. The existing structures on the five existing dispensaries' parcels are not designated as historical. Though cultural resources are in the area of some of these facilities, there are protections in place for historical and cultural resources through both the ministerial and discretionary permitting process. The discretionary permitting process would require the applicant to obtain a site plan and undergo a cultural study. In the case of a project with a ministerial action, if the project required excavations of 200 cubic yards of earth, a grading permit with additional environmental (including cultural) review would be required. Additionally, Health and Safety Code §7050.5 requires that a contractor who finds human remains stop work and contact the County Archaeologist and the County Coroner. The Coroner then contacts the Native American Heritage Commission to determine the most likely descendant, including steps to preserve the remains. Non-compliance is punishable by a misdemeanor. Additionally, Penal Code 622.5 makes injury or destruction of any object or thing of archaeological or historical interest or value a misdemeanor. Therefore, the project will not cause a substantial adverse change in the significance of a historical resource.

The proposed project is consistent with CEQA Sections 15301–Existing Facilities, 15303–New Construction or Conversion of Small Structures, and 15304 – Minor Alterations to Land, and no exceptions listed in CEQA Section 15300.2 apply. Therefore, the project may rely on the exemptions for the reasons documented above.