

ATTACHMENT A – Report Back on the Draft Socially Equitable Cannabis Program

REPORT BACK ON THE DRAFT SOCIALLY EQUITABLE CANNABIS PROGRAM

Social Equity Program (SEP) and Social Equity Ordinance Amendments

The SEP's primary focus is to provide resources and benefits to social equity applicants. Each applicant must meet eligibility criteria. To qualify for Tier A, the applicant must have been incarcerated for a San Diego County arrest or conviction for any crime under the laws of the State of California or United States related to the sale, possession, use, manufacture, or cultivation of Cannabis that occurred prior to November 8, 2016. To qualify for Tier B, the applicant must have been deported or convicted for arrest in San Diego County crime under the laws of the State of California or United States related to the sale, possession, use, manufacture, or cultivation of Cannabis that occurred prior to November 8, 2016, and Low Income – 80% or below of the Area Median Income (San Diego County) determined by US Department of Housing and Urban Development) to receive benefits. Benefits include training, one-on-one mentorship, record expungement assistance, grant opportunities, and workforce development assistance. Grant opportunities from the Governor's Office of Business and Economic Development's Cannabis Equity Grants Program for Local Jurisdictions have been available to eligible applicants and future grants will be disbursed.

The SEP ordinances will include additions to the County of San Diego Regulatory Code to address social equity-specific related items. Social equity requirements would be found in Regulatory Code Section 21.2801-21.2809 and would be separate from the Cannabis Regulatory Code. Social equity applicants would have a three-year head start on the program to obtain a cannabis license. Other SEP components include requiring a minimum 50% of storefront retail dispensaries to be reserved for social equity applicants (with a ceiling, or cap, of 25 total storefront retail dispensaries Countywide), and all social equity owned businesses must retain at least 51% ownership by social equity applicant(s). All other cannabis business types would be open to social equity participants to start the licensing process once cannabis licenses begin to be accepted.

Zoning Ordinance Amendments

The draft SECP includes amendments to the Zoning Ordinance to allow for new cannabis facilities. The draft amendments include development standards that will limit cannabis facilities to certain agricultural, commercial, and industrial zones based on the facility type. All facilities must be, at minimum, located outside of a State-mandated 600-foot buffer from sensitive uses including schools, daycares, and youth centers; however, the Board has the option to recommend additional buffers and protections. Cannabis facilities must comply with performance standards related to lighting, fencing, noise, odor, and water source.

The Zoning Ordinance amendments will define the permit requirements for cannabis facilities, based on the size and type of facility. Required permits may include a Zoning Verification Permit, an Administrative Permit, and/or a Site Plan permit. A Zoning Verification Permit is a ministerial permit type and is approved by the Director of Planning & Development Services (PDS) and is non-appealable. Ministerial permits are the simplest and lowest cost types of permits for business owners to obtain. Administrative Permits are used for some complex or sensitive uses, are approved by the Director of PDS, and appealable to the Planning Commission. Cannabis facilities would not be exempted from any Special Area Designators which could require applicants to obtain additional permits such as a discretionary Site Plan Permit. To operate, all cannabis facilities

would need to obtain a State license, a local Cannabis Business license, and a local land use permit, as well as any other approvals from State resource agencies.

Depending on today's Board direction, the required buffers, list of sensitive uses, and allowed cannabis uses will be revised in an updated draft Zoning Ordinance that will be presented to the Board for consideration in summer 2026. When staff return to the Board in summer 2026, the Board will have the ability to reconsider the draft ordinance or any of the other project alternatives in light of the final environmental review and any additional stakeholder feedback at that time.

Regulatory Code Amendments for Cannabis Licensing

The draft SECP includes proposed updates to the County of San Diego Regulatory Code. The proposed updates to the existing Regulatory Code are for a new cannabis permitting system that would allow existing and new medicinal and/or adult-use cannabis facilities to obtain a County operating permit for one of the following categories: Retail (Storefront and/or Non-Storefront), Cultivation, Manufacturing, Distribution, Testing, Consumption Lounges, and Temporary Cannabis Events; or a County operating permit for a Microbusiness license. The proposed updates to the Regulatory Code outline new licensing regulations which include requirements for license application, facility operation, and enforcement parameters with associated fees. Also included are updated guidelines for renewals, transfers, suspensions, and revocations, and PDS oversight responsibilities for cannabis businesses. Public comments were accepted on the draft amendments included as Appendix B of the Draft PEIR, from January 30 to March 31, 2025. Today's action requests direction from the Board on temporary cannabis events and onsite consumption lounges. Staff will return to the Board with the final Regulatory Code amendments in summer 2026.

Program Environmental Impact Report

The draft SECP includes the preparation of a PEIR, as required by the California Environmental Quality Act (CEQA). A PEIR is used to inform public agency decision makers and the public of the significant environmental effects of a project, identify ways to mitigate or avoid the significant effects, and describe a range of alternatives to the project that could attain most of the basic objectives of the project while substantially lessening or avoiding any of the environmental impacts.

Generally, the more comprehensive the County's upfront environmental review is for the SECP, the less environmental review will be necessary for individual applicants. Individual applicants may qualify for streamlined CEQA review if their project activities fall under what was analyzed in the PEIR. The PEIR is intended to allow for a more simplified environmental review process while still ensuring the protection of environmental resources.

CEQA requires that a PEIR analyze project alternatives to allow evaluation, analysis, and comparison of impacts among alternatives with the proposed project. These alternatives must avoid or lessen the proposed project's environmental impacts while achieving most of the proposed project's objectives. The Draft PEIR evaluated five project alternatives at an equal level. The project alternatives differ in their list of sensitive uses, buffer distances, allowed facility types, and the allowed maximum outdoor cultivation area. The Board does not need to select one of the five defined project alternatives identified within the PEIR but rather has the discretion to direct an

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option that falls within the range of alternatives evaluated within the PEIR analysis. The PEIR project alternatives can be used as a starting point for decision making and build upon these based on additional input from stakeholders.

The Draft PEIR found that adoption of the SECP could result in certain significant and unavoidable environmental impacts. These include impacts to aesthetics, air quality (odor), adequate water supplies, temporary construction-related noise, and transportation. PEIR Project Alternative 4, which prohibits outdoor cultivation, would reduce air quality impacts to less than significant, as odors could be controlled more effectively when plants are located inside of an enclosed structure. Most environmental impacts are anticipated to occur from cultivation activities. Mixed-light cultivation consumes significant electricity for growing. Additionally, odor is more difficult to control when cannabis is grown outdoors or within a greenhouse (mixed-light) which regularly vents to maintain an optimal growing environment. The Draft PEIR includes mitigation measures which are designed to reduce the potential adverse environmental impacts. These mitigation measures will be incorporated into the draft ordinances and licensing and permitting procedures. A detailed description of the five project alternatives and their significant and unavoidable environmental impacts is provided in Attachment B.

Since significant environmental impacts were identified in the Draft PEIR, the Board must adopt a Statement of Overriding Considerations at the time of program approval. The Final PEIR, including responses to comments, will be made available to the public in spring 2026, preceding formal recommendations or determinations on the SECP.

Status Update on June 15, 2022 (7) Measures

On June 15, 2022 (7), the Board directed the CAO to analyze the incorporation of 16 measures into the SECP (Attachment B). These measures were organized into three program groups, each with a respective timeline: (1) Design features to be included in the SECP environmental review, (2) Considerations that require research, and (3) Considerations that require further cost research, each of which is further described below.

Program group one contains Measures 1 – 3. The Board direction states these measures shall be included as part of the project to be analyzed within the SECP environmental review and alternatives, in addition to considering the recommendations within the SECP.

Program group two contains Measures 4 – 10. The Board direction states that these measures intend to provide staff the time to research and collaborate with the community and to return to the Board within one year to provide options.

Program group three contains Measures 11 – 16. The Board directed staff to report back on resources needed to determine the need for future budgets and to determine potential alignment with efforts being worked on by the Office of Equity and Racial Justice (OERJ).

The table below provides a final update on these 16 measures.

#	Program Group & Description	Measure Description	Lead	Status Update
1	<u>Design features to be included in the SECP environmental review</u> The following measures shall be included as part of the project to be analyzed within the Cannabis Permitting Program EIR and alternatives, in addition to considering the recommendations within the Socially Equitable Cannabis Program.	Sensitive Uses Expand the definition of “sensitive” uses to include the following (as defined by the General Plan and/or Zoning Ordinance that can also be further refined by staff): <ul style="list-style-type: none">a) regional parks, local parks, trails, recreation facilities, and preserves (if preserve hasb) visitor-serving amenities)c) places of worship (churches, temples, etc.)d) childcare centerse) public libraries operated by the County and/or other citiesf) residential care facilitiesg) schools (including public, private, and charter)h) other cannabis facilities	LUEG - PDS	The additional sensitive uses, expanded buffer distance, and expanded advertising regulations were incorporated into the Draft Program Environmental Impact Report under Project Alternatives 3, 4, and 5.
2		Setback Increase the setback of any cannabis facility from “sensitive” land uses from 600 feet to 1,000 feet (measured at the property line)	LUEG - PDS	
3		Advertising Expand existing County billboard regulations to prohibit advertising of cannabis on a billboard within 1,000 feet of a “sensitive” use	LUEG - PDS	
4	<u>Considerations that require research</u> The intent of these measures is to provide staff the time to research and collaborate with the community and to return to the Board within one year to provide options. These measures would direct the CAO to report back on measures 4 - 10.	Design Checklist For each type of cannabis facility, develop a ministerial objective design guideline checklist, similar to existing design guidelines in unincorporated communities, that will generally serve to detract those under 21 from seeking to visit the facility. These criteria could prohibit such designs that include, but are not limited to, bright colors and misleading facility names. The design guideline criteria shall be included as a checklist. If any of the criteria cannot be met, the applicant shall be required to submit justification.	LUEG - PDS	The draft Zoning Ordinance amendments include signage requirements which stipulate that signage cannot depict any image of cannabis or individuals under 21 years of age, and that signage cannot be designed to be attractive to youth. Additionally, cannabis facilities would not be exempted from the B, S, and D Special Area designators. The designators require community design review and compliance with Objective Design Guidelines Checklists based on the Community Planning Area the facility is located in. With the implementation of the existing community design review process and additional signage standards, staff do not recommend any additional standards.
5		Facility Caps Propose options for each community planning area that includes a limit on each type of cannabis facility based on the following criteria (including criteria set forth within Measure 1), along with: cumulative limit on indoor consumption lounges in the unincorporated area: <ul style="list-style-type: none">a) Geographic and population size of each communityb) Facility type related to land use designations and zoningc) Consider previous Board direction related to VMT and sustainability	LUEG - PDS	The draft Regulatory Code amendments include a Countywide license ceiling of 25 retail storefront facilities, which includes consumption lounges. Rather than include facility caps for other types of facilities, staff propose additional restrictions applicable to outdoor and mixed-light cultivation. These include options to prohibit outdoor cultivation, limit outdoor cultivation to a maximum of 1-acre, and additional buffers applicable to outdoor and mixed-light cultivation. The Board of Supervisors may direct staff to set additional facility caps if desired.
6		Cannabis Event Develop a definition for a “cannabis event” and provide guidance that could include geographic restrictions and limit frequency of cannabis events that could include consideration of VMT, noise compatibility, and road safety.	LUEG - PDS	Staff developed a definition and regulations for cannabis events. These are detailed in the draft Zoning Ordinance and Regulatory Code amendments.
7		Ownership Restrictions Provide options to enhance restrictions set forth within State law (California Code of Regulations, Title 4, Section 15017) to include the same requirements set forth by the Alcohol Beverage Control (ABC) licensing process.	LUEG - PDS	Staff developed ownership requirements within the draft Regulatory Code with restrictions similar to ABC ownership requirements.
8		Employment Restrictions Determine the legality and return to the Board with options of prohibiting, limiting, or restricting employment using the same criteria set forth by the ABC licensing process.	LUEG - PDS	Restricting employment at specific business types is not allowed under several State and Federal employment laws. The draft Regulatory Code does restrict employment at cannabis facilities to persons 21 and older.
9		Community Equity Contribution Program Establish a Community Equity Contribution Program, to be funded by the County, that will be integrated within the Socially Equitable Cannabis Program. This would include a report with data-driven recommendations combined with a community-led input process to determine the needs of each unique community. The Program should explore the potential of permit fee waivers or other incentives that will instead provide direct benefits to the community where these facilities and operations will be located. The intent of the Program, which could be similar to work currently being researched by County staff for Community Benefit Agreements, would be specific to cannabis facilities and could include funding for education, community beautification, and other community-related benefits, as part of the Socially Equitable Cannabis Program.	FG3 - OERJ	Staff identified a potential approach to the Community Equity Contribution Program which would be focused on Community Incentive Grants, would allow cannabis businesses that provide a community benefit to apply for and receive rebates or grants based on the payment status of their cannabis taxes. This approach is modeled after the City of Oakland's Cannabis Tax Rebate Program, which requires that businesses must have paid their cannabis taxes on time and in full for the year to be eligible. This allows the County a full year (or longer, if desired) to generate

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				cannabis tax revenue before payments are made and provides an added incentive for cannabis businesses to pay their taxes on time and in full. The County would have the flexibility to determine the qualifying period (e.g., quarterly or annually) and the rebate or grant amount.
10		Enforcement With the Code Compliance Division of PDS leading the effort, develop recommendations to combat the illicit cannabis market and public safety concerns, in consultation with Sheriff and other regional law enforcement stakeholders, that would include (but not limited to): <ul style="list-style-type: none">a) Parameters on deliveries (must come from a facility with a valid license and building, geographical restrictions, and limits on hours of deliveries)b) Enhanced enforcement options (shoulder tap/minor decoy)c) Other possible restrictions related to onsite consumption lounges, temporary cannabis events, and cultivation practices	LUEG - PDS	Staff has developed language within the draft Regulatory Code that enhances the County’s ability to enforce on illicit cannabis activities. The draft code was based on best enforcement practices in other jurisdictions. Specific law enforcement techniques used for illicit cannabis enforcement are already available to local law enforcement and do not require authorization for use by the Board.
11	Considerations that require cost research These measures would direct the CAO to report back on resources needed within 180 days to determine the need for future budgets (and to determine potential alignment on efforts being worked on by the Office of Equity and Racial Justice) to accomplish measures 11 – 16.	Local Ownership Incentives Explore how to incentivize local ownership of cannabis facilities and explore guidelines on the transfer of business licenses	LUEG - PDS	<p>There are potential legal implications associated with this measure. Most recently, an out-of-state business professional has filed a lawsuit against the City of Los Angeles’s Social Equity Program for enacting laws and regulations that provide a preference to CA residents over out-of-state residents and cited that it is in violation of the U.S. Constitution's dormant commerce clause. The U.S. Constitution’s dormant commerce clause is not an express clause but references Article 1 Section 8 of the U.S. Constitution which grants the U.S. Congress oversight of interstate commerce. Additionally, California signed Senate Bill 1326 (SB 1326), Cannabis: Interstate agreements, into law on September 18, 2022, which now allows for entering into interstate agreements to distribute and sell adult-use cannabis sales across state borders. Due to the lawsuit in the City of Los Angeles, and the enactment of SB 1326, staff recommends not implementing local ownership incentives.</p> <p>In order to address “flipping” of licenses for cannabis facilities from one owner to another, the updates to the Regulatory Code include the following regulations on transferring of a cannabis business license: 1) the owner of a cannabis business license shall not be allowed to transfer all or any portion of its license prior to twelve (12) months after the license has been issued; 2) the owner of a cannabis business shall not transfer ownership to another person or entity without approval from Planning and Development Services.</p>
12		Worker Health Protections Determine exposure-related health risks to workers at indoor consumption lounges, and, if protective measures are necessary, create requirements that shall be followed through licensing requirements.	LUEG - DEHQ	<p>Cal/OSHA is the responsible agency for employee safety, the responsibility for determining exposure-related health risks to workers at indoor consumption lounges is not within the authority of the County of San Diego. If additional licensing requirements are placed on the cannabis industry at the local level, they may be superseded by subsequent State statutes developed because of Cal/OSHA’s rulemaking process.</p> <p>As an alternative, the Board of Supervisors has the option to advocate for (1) future Cal/OSHA rulemaking regarding worker safety and health at on-site consumption lounges, (2) further exposure analysis for cannabis smoke, and (3) directing staff to prohibit indoor consumption lounges. There is no identified need for additional resources within future budgets to accomplish this measure.</p>

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13		Code Enforcement Penalties Determine if code enforcement penalties can be specific to cannabis facilities, and if so, develop a set of criteria that will result in possible penalties for cannabis facilities that have documented code violations that escalate quickly if not actively resolved. This should include, in order: financial fines, forced temporary closure, and permit revocation	LUEG - PDS	Specific criteria for enforcement penalties at regulated cannabis facilities have been included in the draft Regulatory Code. These include an increase in the amount of financial penalties as well as temporary closure and permit revocation criteria.
14		Prevention Curriculum Work collaboratively with research partners engaged through the Marijuana Prevention Initiative to develop recommendations that include a comprehensive, evidence-based marijuana prevention curriculum to be available for schools throughout the San Diego region.	HHSA-BHS	Through a contract with the San Diego County Office of Education (SDCOE), BHS is implementing the Substance Use Prevention and Life Skills curriculum (Project ALERT) for students in grades 6 and 7. The curriculum is evidence-based and includes cannabis prevention messaging. Project ALERT is a third-party skills development program designed to reduce the prevalence of substance use among youth through building resiliency and refusal skills and includes lesson plans and resources for educators to use in classrooms. In fiscal year 2024/2025 the Life Skills curriculum was implemented in 23 school sites across 8 districts, with 10,824 students receiving core or booster lessons. For fiscal year 2025/2026, curriculum is currently being implemented at 39 middle schools across 9 school districts. This includes public and charter school campuses.
15		Prevention Curriculum Content The curriculum should also include, but not be limited to, the following: a) Require education to cannabis retail staff not to provide medical advice. b) Conduct education with public health nurses, school nurses, and programs serving pregnant women about the adverse impacts of marijuana use. c) Require warning signs in cannabis shops about contraindications and negative health impacts when using cannabis with prescribed medications. Establish a framework for updating educational materials as medical research documented within medical journals progresses.	HHSA-BHS	BHS amended the Cannabis Public Health Initiative (CPHI) contract (formerly Marijuana Prevention Initiative) to develop signage to be displayed by cannabis retailer locations stating that cannabis retail staff do not give medical advice, advising of the risks related to cannabis use and misuse, and advising of negative interactions of cannabis use and prescription medication. The signs have been developed by CPHI with input and review from BHS, Public Health Services (PHS) and Medical Care Services (MCS). The signs are currently displayed in all cannabis retailers in unincorporated San Diego County in both English and Spanish languages and are available for translation in all other threshold languages. The signs are incorporated in review for compliance by the Planning Development Services Code of Compliance Cannabis Licensing Division. In addition, BHS amended CPHI to establish and keep up to date an online resource library with current and relevant cannabis informational resources that can be utilized by public health nurses, and other programs, including those serving pregnant women. The online resource library is held at www.ccrconsulting.org/initiatives/cannabis-public-health/resource-library . Updates to the online resource library are reviewed by the BHS COR during technical assistance meetings and during annual site visits.
16		Board Policy Develop a Board Policy that includes minimum funding requirements for codes and law enforcement against illegal dispensaries.	LUEG - PDS	Staff are developing a draft Board policy to be included in the final SECP that will route all future cannabis funding requests through the existing County budget process.