



City of Huntington Beach

Cannabis Regulatory Framework & Draft Ordinances

City Council Meeting
June 21, 2022

SUPPLEMENTAL
COMMUNICATION

Meeting Date: 6/21/2022

Agenda Item No.: #24 (22-444)



Background - City of Huntington Beach

- The City prohibits medicinal and recreational cannabis activities in the City.
 - Exception: allowing/regulating non-medical marijuana cultivation per a private residence up to six plants
- Two private parties have filed separate cannabis petitions requesting that the City prepare documents allowing their proposed regulations to be placed before the voters of Huntington Beach for consideration.
 - November 3, 2021 – *Huntington Beach Cannabis Taxation and Regulation Act*
 - December 2, 2021 – *Huntington Beach Cannabis Regulation & Land Use Measure*
- These initiative measures were created without City Council or staff input.



Background - Continued

- On December 21, 2021 Study Session, the City Council formed an ad-hoc subcommittee, consisting of Councilmembers Bolton, Kalmick and Peterson, to further assess, research and present a balanced cannabis regulatory framework for the Council's consideration.
- On February 15, 2022 Study Session, the Subcommittee presented the preliminary framework to the City Council.
- On March 1, 2022, the City Council voted to place a measure on the 2022 Primary Election ballot, *Measure A: Cannabis Business Tax Measure*, asking voters whether to adopt a special tax levied on cannabis retail and non-retail businesses if they were to be permitted.



Background - Continued

The City Council directed staff and the Subcommittee members to discuss the implications of various unresolved policy and regulatory matters associated with cannabis and report back to the City Council.

The City has solicited input from residents, businesses, and community stakeholders on the proposed regulatory framework through a community forum held on June 9, 2022 and by accepting written comments via email and the City website.

- [Email: cannabis@surfcity-hb.org](mailto:cannabis@surfcity-hb.org)
- [Website: www.huntingtonbeachca.gov/cannabis](http://www.huntingtonbeachca.gov/cannabis)

City staff is presenting the draft regulatory ordinance and zoning text amendments for the City Council's further direction.

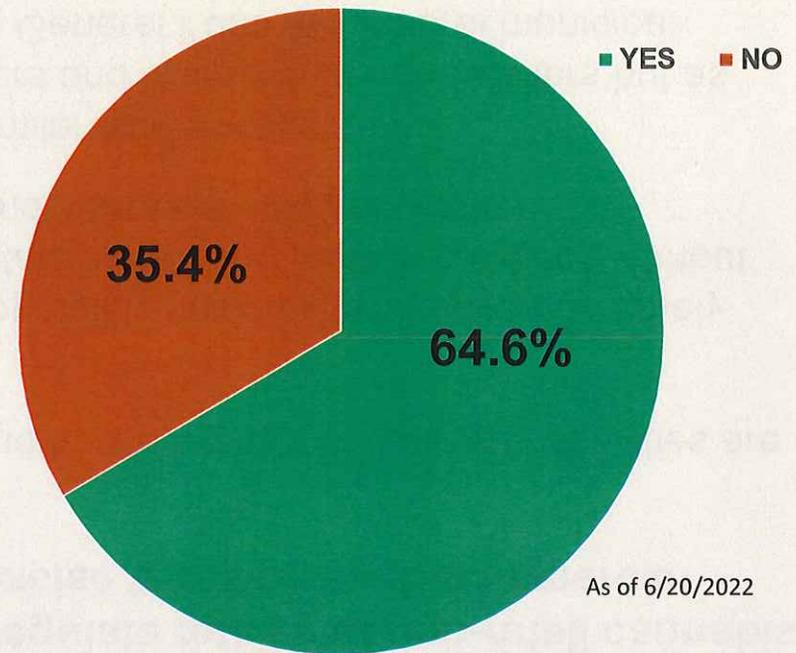


Background - Continued

MEASURE A:

Cannabis Business Tax

- Retail tax: up to 6%
- Non-retail tax: up to 1%
- Special Tax with revenues being restricted to Police and Homeless & Behavioral Services
- 100% cost recovery on city expenses through fees, approved by the City Council via resolution.



June 7, 2022 Primary Election – HB Voters



Cannabis laws adopted by Voters and Council

City staff is recommending that the City:

- Place two ballot measures on the November 2022 General Election asking voters whether the City should allow and regulate retail and non-retail cannabis businesses; and if allowed, impose local excise taxes on such commercial activities as General Tax.**
 - ❖ Extend to voters authority as to whether and how commercial cannabis activities are permitted.
 - ❖ Maintain the City Council's ability to develop policy positions while allowing timely flexibility to respond to the ever-evolving State's laws and market condition without necessitating the delay and expense of conducting a municipal election.
 - ❖ Cannabis Business Tax measure will be similar to the Measure A:
 - Up to 6% on the gross receipts of retailers and up to 1% to non-retailers but as
 - General Tax, with proceeds going to the General Fund for general municipal services.



Cannabis Regulations adopted by Council resolution

The City will develop an administrative regulation that specifies and governs:

- ❖ Application and renewal procedure
- ❖ Pre-operational requirements and operational standards including security, fire safety, and code enforcement related requirements
- ❖ Other administrative procedures necessary to carry out the purpose of the regulatory ordinance and zoning code.



Key Features of Cannabis Regulatory Framework

****IMPORTANT:** These key features of working draft are based on the Subcommittee’s recommendations and subject to change**



Cannabis Industry Types

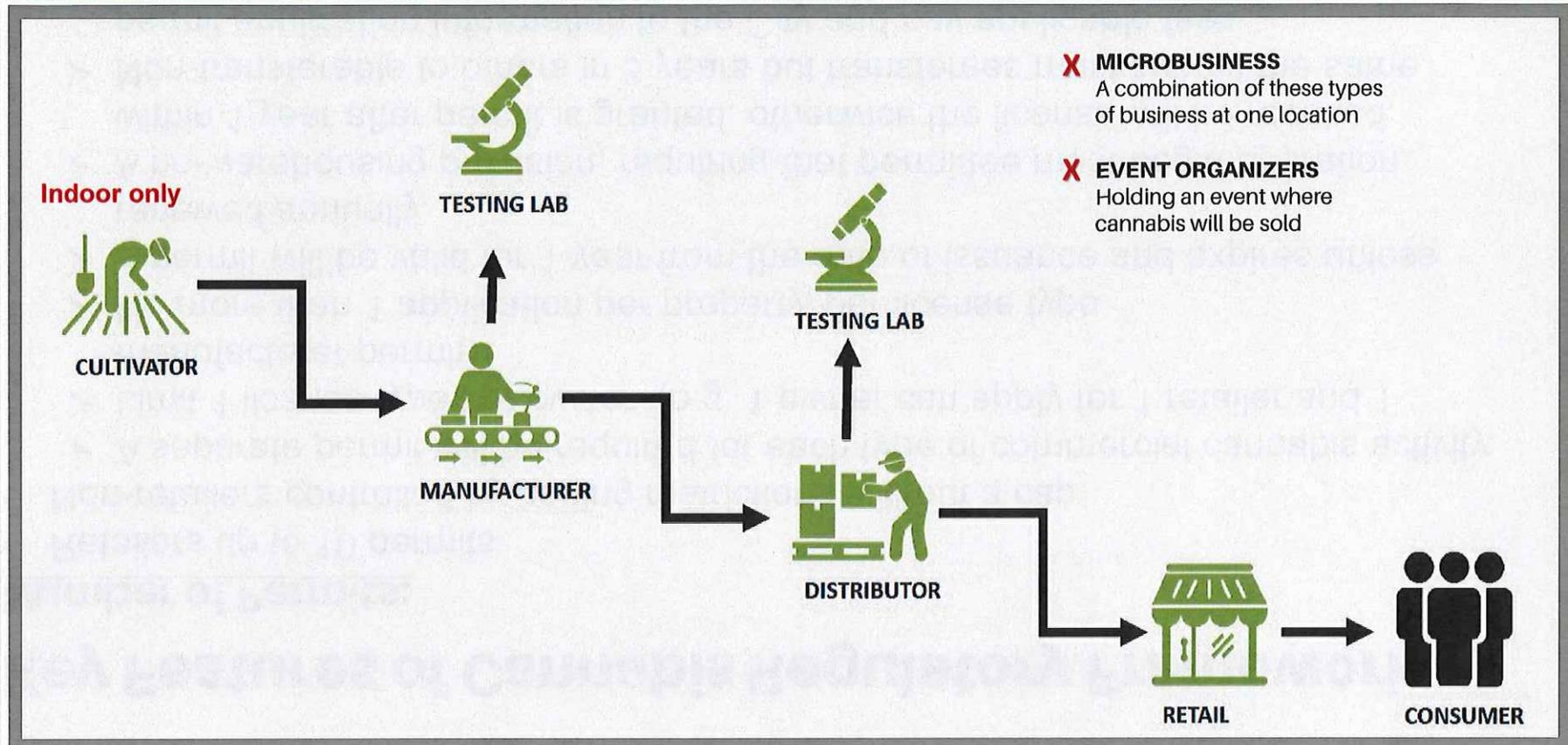


PERMITTED	PROHIBITED
<ul style="list-style-type: none"> • Retailers – Storefront dispensaries (w/delivery) 	<ul style="list-style-type: none"> • Sales on vehicles/mobile stores, kiosk, or temporary structures
<ul style="list-style-type: none"> • Retailers – Non-storefront, delivery-only facilities 	<ul style="list-style-type: none"> • Sale by vending machine
<ul style="list-style-type: none"> • Non-Retailers – Indoor Cultivation 	<ul style="list-style-type: none"> • Outside cultivation
<ul style="list-style-type: none"> • Non-Retailers – Manufacturing 	<ul style="list-style-type: none"> • microbusinesses
<ul style="list-style-type: none"> • Non-Retailers – Testing Labs 	<ul style="list-style-type: none"> • Cannabis events/event organizers
<ul style="list-style-type: none"> • Non-Retailers – Distribution 	



Key Features of Cannabis Regulatory Framework

Permitted Cannabis Business Types in the Supply Chain



Key Features of Cannabis Regulatory Framework

Number of Permits:

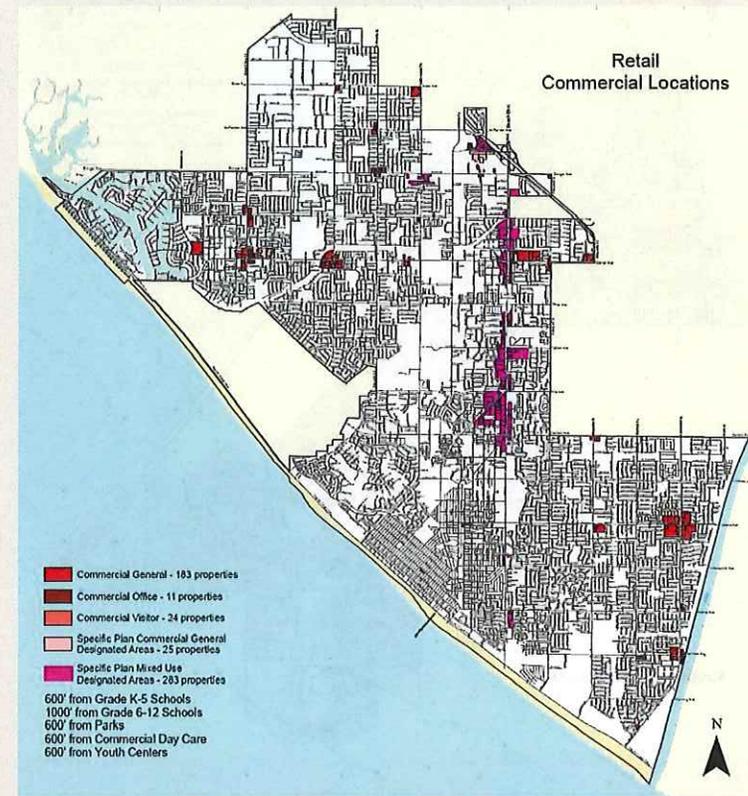
- Retailers up to 10 permits
- Non-retailers controlled by zoning restrictions without a cap
 - A separate permit will be required for each type of commercial cannabis activity.
 - Limit 1 license type per owner (e.g. 1 owner can apply for 1 retailer and 1 manufacturer permit)
 - No more than 1 application per property, per license type
 - A permit will be valid for 1 year from the date of issuance and expires unless renewed annually.
 - A no-warehousing provision, requiring that permittee must begin operation within 1 year after permit is granted, otherwise the license will be revoked.
 - Non-transferable to others in 3 years but transferees must submit the same permit application information to the City and pay applicable fees.



Key Features of Cannabis Regulatory Framework

Zones & Buffer Restrictions

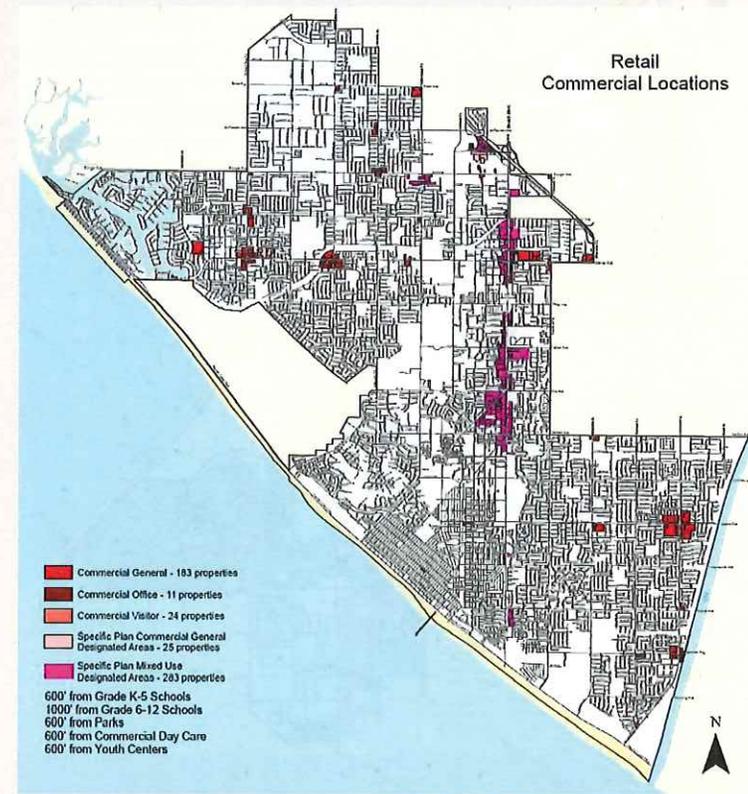
- **Retailers**
 - Storefront dispensaries: allowed in the Commercial, Specific Plan Areas, & Industrial Zone with buffer restrictions
 - Non-storefront/delivery-only retailers can locate in the Industrial Zone with buffers
 - Exclude Downtown (SP5) and Sunset Beach Specific Plan (SP13)
 - Exclude Coastal Overlay Zone



Key Features of Cannabis Regulatory Framework

Zones & Buffer Restrictions

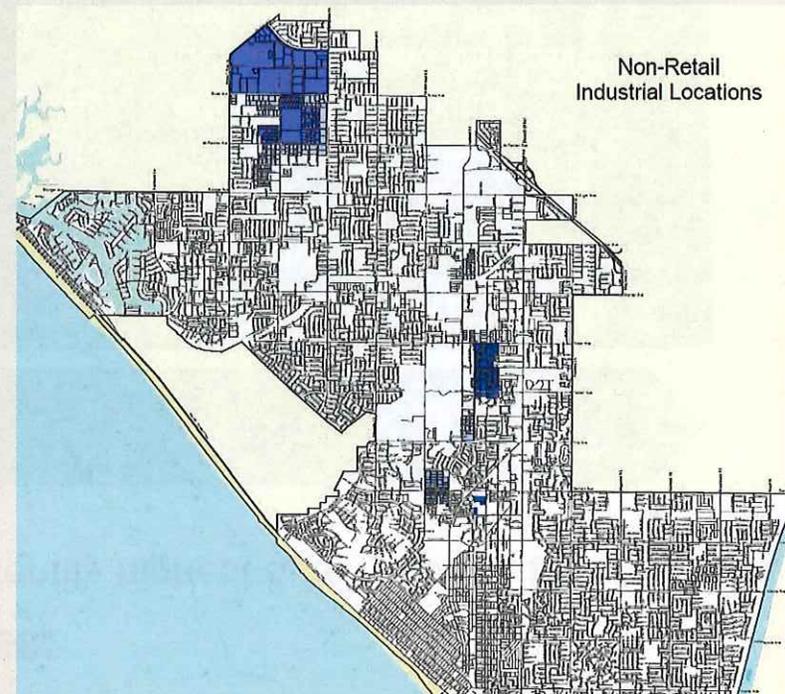
- **Retailers – Continued**
 - Permitted in multistore front buildings
 - No buffer requirement between shops
 - Established businesses will be grandfathered to continue operation even if a new sensitive receptor opens within existing buffers
- **Buffer Distance:**
 - 1,000 ft. from high & middle schools; and
 - 600 ft. from K-5 schools (inclusive of all public, private, and charter schools); and
 - 600 ft. from parks, licensed commercial daycare centers, and youth centers.



Key Features of Cannabis Regulatory Framework

Zones & Buffer Restrictions

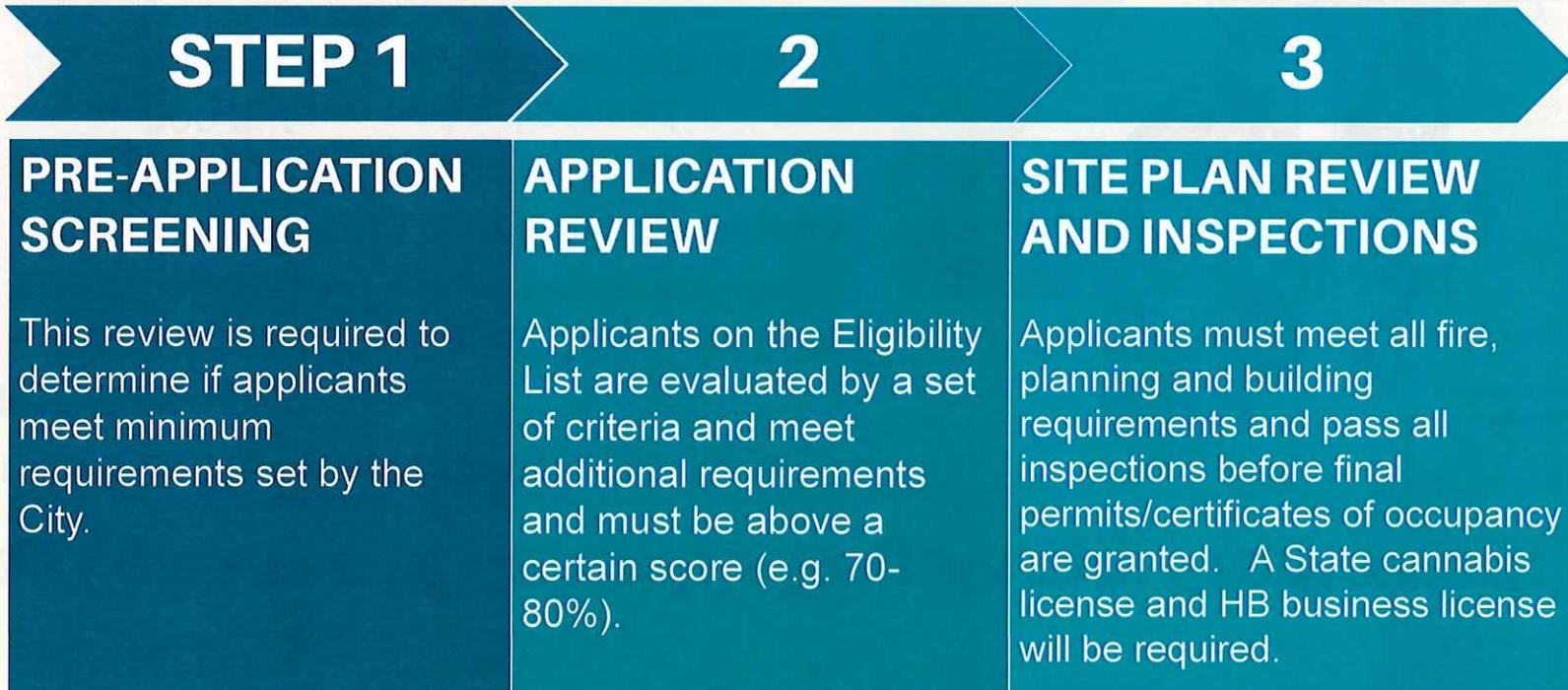
- **Non-Retailers**
 - Allowed in the Industrial Zone with buffer restrictions that are same as retailers.
 - 1,000 ft. from high & middle schools;
 - 600 ft. from K-5 schools; and
 - 600 ft. from parks, licensed commercial daycare centers, and youth centers.



Key Features of Cannabis Regulatory Framework

Permit Application and Selection Process:

- Merit-based (RFQ/RFA) application process to identify highest quality operators and make the permitting process efficient and streamlined.



Key Features of Cannabis Regulatory Framework

Permit Application and Selection Process:

STEP 1 to screen applicants for Eligibility List:

- Complete application with applicable fees paid to the City on time
- Sworn affidavit that the proposed location meets the zoning criteria
- Proof of ownership or control of the site upon which the cannabis business is to operate
- Proof of having at least 4 current permits or licenses in CA, one of which must be retail if applying for retail permits
- Refundable security deposit of a fixed amount set by the Council (e.g. \$250K)
- Proof of having an identified local philanthropy partner that benefits the City
- No past violations



Key Features of Cannabis Regulatory Framework

Permit Application and Selection Process:

STEP 2 to evaluate applications on the Eligibility List based on a set of evaluation criteria including:

- Ownership structure
- Owner qualifications including prior successful experience
- Capitalization plan
- Business and Operation plan that may include employee training, standard operating procedures, ordering systems, etc.
- Traffic/Circulation/Parking Plan
- Safety and Security plan for the Commercial Cannabis Facility
- Labor Peace Agreement
- Community Benefit Plan
- Local Hire/Sourcing programs
- Other criteria established by the City's Commercial Cannabis Regulations.



Key Features of Cannabis Regulatory Framework

SECURITY MEASURE AND OPERATIONAL REQUIREMENTS



24/7 security guards on the premises



Video monitoring inside & outside of building



Extensive background checks for owners & employees



No consumption allowed onsite or near premises



Customer check-in and age verification (21+)



City personnel may access surveillance videos at any time



Comprehensive state and local permitting process



Key Features of Cannabis Regulatory Framework

FIRE SAFETY REQUIREMENTS

- HBFD inspection required prior to occupancy requirement.
- Commercial cannabis facilities must submit plans demonstrating compliance with CA Fire Code, identify any hazardous processes, and fire protection systems.
- Commercial cannabis facilities are subject to routine fire and life safety inspections at the frequency identified in the HBFD's Community Risk Assessment.



Key Features of Cannabis Regulatory Framework

CODE ENFORCEMENT

- All owners/operators must remedy any expired building permits for the subject tenant space before being in operation.
- Permittees must carry and display a copy of the issued permits for public view.
- Refrain from displaying cannabis products or graphics to be visible from the exterior.
- The City shall board any doors and windows associated with illegal cannabis businesses.
- The City may shut off the electric or water service to businesses in violation, in addition to criminal and administrative penalties.



Additional Community Feedback

I. Medicinal cannabis businesses and customers:

- a. Allow medicinal cannabis sales to medical patients under 21 (18+ with a valid medical card and ID) similar to the State; and/or
- b. Differentiate tax rates and apply a lower tax rate for medicinal cannabis products than adult-use, recreational cannabis sales; and/or
- c. Permit cannabis businesses to donate medical products to veterans per SB34.

II. Operation Hours:

- Extend the operation hours of storefront retailers from 6am to 10pm following the State requirement. This will be consistent with retail deliveries.



Additional Community Feedback

III. Buffer measurements:

- a. From property line to property line, instead of the occupied premises to the property line; or
- b. From premises to premises.

IV. Pre-application requirement to have at least 4 local permits or State licenses, one of which must be retail for retailers for retail applicants:

- Consider the number of required permits to a lower threshold or alternatives to measure applicants' qualification such as years of operating successful businesses.



Additional Community Feedback

V. Local residency requirement and/or preference:

Support local residents and business owners by adding the following components:

- a. Requiring that business owner(s) have been Huntington Beach residents for at least 3 years and/or at least 51% of their employees are residents; and/or
- b. Allocating 2 permits out of total 10 permits or allow 2 additional permits (total of 12) to “Locals only-Equity” businesses that get processed after the first ten and lower the entry points/less restrictive requirements.



Additional Community Feedback

VI. Location/Property Requirement:

Consider not requiring a proof of ownership or site control of a property

- It could lower entry barriers for small businesses and widen the application pool
- It may create a situation where applicants go through vigorous application process but cannot open a business due to lack of the viable property in areas zoned for cannabis commercial activity within the City limit.



Recommended Actions:

- A) Direct staff to prepare and return to the City Council to adopt a resolution placing a City-sponsored ballot measure on the November 8, 2022 General Election, asking voters if the City should allow and regulate cannabis retailers and non-retailers for both medical and recreational to operate in areas zoned for cannabis commercial activity within Huntington Beach; and
- B) Direct staff to prepare and return to the City Council regulatory and zoning ordinances regarding commercial cannabis activities for City Council adoption and the City's Commercial Cannabis Regulations to be adopted by Council resolution; and
- C) Direct staff to prepare and return to the City Council to adopt a resolution placing a City-sponsored cannabis tax measure on the November 8, 2022 General Election ballot as a General Tax.





QUESTIONS?