

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2847

ORDINANCE AMENDING ARTICLE 8 OF THE SAN DIEGO UNIFIED PORT DISTRICT CODE TO ADD SECTION 8.04 PROHIBITING THE CULTIVATION OF MARIJUANA ON DISTRICT TIDELANDS AND SUBMERGED LANDS GRANTED TO THE DISTRICT, AND ANY OTHER LANDS CONVEYED TO OR ACQUIRED BY THE DISTRICT

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, Section 55(a) of the Port Act requires the Board of Port Commissioners to make and enforce all necessary rules and regulations governing the use and control of all navigable waters and all tidelands and submerged lands, filled or unfilled, and other lands within the territorial jurisdiction of the District; and

WHEREAS, on October 9, 2015, California Governor Brown signed the Medical Marijuana Regulation and Safety Act (Act) into law; and

WHEREAS, under the Act, if a local government does not take an affirmative action to set land use regulations in place to prohibit or control the cultivation of marijuana, the State of California will become the sole licensing authority in that jurisdiction; and

WHEREAS, the deadline for action is March 1, 2016; and

WHEREAS, in addition to the District retaining local control of the ability to establish land use regulations within the District's jurisdiction, there is a potential for adverse impacts related to marijuana cultivation including environmental impacts, such as illegal discharge into waterways and poisoning of marine life and habitats; and

WHEREAS, as noted in the Assembly Floor Analysis of AB 243, the cultivation of marijuana has caused significant damage to California's natural environment; and

WHEREAS, the potential for future damage is exacerbated by the lack of regulation of the medical marijuana industry, and in particular, the cultivation of medical marijuana; and

WHEREAS, in addition, the District currently lacks the resources to create and enforce environmental regulations managing the cultivation of marijuana; and

WHEREAS, the State of California is still in the process of drafting environmental regulations related to marijuana.

NOW, THEREFORE, the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

That Article 8 of the San Diego Unified Port District Code is amended to add Section 8.04 prohibiting the cultivation of marijuana within the jurisdiction of the San Diego Unified Port District as follows:

Section 1.

(a) Definitions

In addition to the definitions and interpretations set forth in Section 0.03 of this Code, and for purposes of this Section, the following words shall mean:

1. "Cannabis" shall have the same meaning as set forth in California Business & Professions Code §19300.5(f), as may be amended from time to time.
2. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis or cannabis products.
3. "Marijuana" means cannabis.

(b) Prohibition

The cultivation of marijuana within the District's jurisdiction, on District tidelands, submerged lands granted to the District, and any other lands conveyed to or acquired by the District is prohibited.

(c) Enforcement

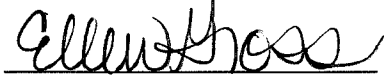
The Executive Director or designee is hereby directed to enforce this prohibition pursuant to Section 0.11 of this Code.

(d) Preemption

Pursuant to Section 60 of Harbors and Navigation Code Appendix I, this Section is intended to preempt local regulation of marijuana on District tidelands and submerged lands granted to the District, and any other lands conveyed to or acquired by the District.

Section 2. This Ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL



By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 12th day of January, 2016, by the following vote:


AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama.

NAYS: None.

EXCUSED: None.

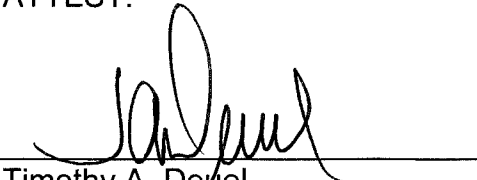
ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)