

## RESOLUTION 2026-###

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO REVERSING THE DECISION OF THE PLANNING COMMISSION, GRANTING THE APPLICANT'S APPEAL, AND APPROVING A CONDITIONAL USE PERMIT TO ALLOW A RETAIL CANNABIS USE AT AN EXISTING COMMERCIAL BUILDING LOCATED IN THE MIXED USE CENTER NORTH DISTRICT IN THE SAN PABLO AVENUE SPECIFIC PLAN (SP-2) AT 14501 SAN PABLO AVENUE, APN: 413-352-017**

**WHEREAS**, on July 15, 2024, the City Council adopted Resolution 2024-105 placing a measure seeking to impose a cannabis business license tax on the ballot for the General Municipal Election on November 5, 2024 (the "Election"); and,

**WHEREAS**, on December 16, 2024, the City Council adopted Resolution 2024-150 declaring the results of the Election pursuant to which Measure M (cannabis business license tax) was approved by the voters with 72% of the vote; and,

**WHEREAS**, on March 3, 2025, the City Council adopted Ordinance 2025-001, amending the San Pablo Municipal Code (Title 17 – Zoning Ordinance) Chapter 17.32, Section 17.32.030; Chapter 17.34, Section 17.34.030; Chapter 17.36, Section 17.36.030, Chapter 17.62, Section 17.62.130, and Chapter 17.70, Section 17.79.040 to revise existing regulations pertaining to the personal cultivation of cannabis and to establish land use standards applicable to certain permitted commercial cannabis businesses in the City of San Pablo; and,

**WHEREAS**, on April 21, 2025, the City Council adopted Resolution 2025-145, approving and authorizing the issuance of a Request for Qualifications (RFQ) for cannabis operator permits for retail sales and adopting procedures governing appeals, if any, of decisions related to the approval and establishment of the eligibility list in connection with the RFQ process; and,

**WHEREAS**, on April 22, 2025, the City released the RFQ for Cannabis Operator Permit for Retail Sales and received six (6) proposals prior to the RFQ due date of June 26, 2025; and,

**WHEREAS**, on June 26, 2025, the company, Embarc, submitted an RFQ and ranked in the top three (3) applicants and was invited to proceed with a formal Cannabis Operator Permit; and,

**WHEREAS**, on September 2, 2025, the City Council approved Resolution 2025-114 establishing a ranked eligibility list pursuant to the RFQ and the top three (3) ranked applicants were invited to proceed with a formal Cannabis Operator Permit application; and,

**WHEREAS**, on September 18, 2025, Embarc submitted a formal Cannabis Operator Permit Application, to establish a storefront cannabis retail business at 14501 San Pablo Avenue, in the Mixed Use Center North district; and,

**WHEREAS**, on October 23, 2025, Embarc obtained approval for a Cannabis Operator Permit for the location at 14501 San Pablo Avenue, in the Mixed Use Center North district; and,

**WHEREAS**, an application was submitted by Embarc on September 22, 2025, PLAN2509-0004, to request a Conditional Use Permit to allow a cannabis retail business use at an existing commercial building located at 14501 San Pablo Avenue, as required per Section 17.62.130(K) of the San Pablo Zoning Ordinance; and,

**WHEREAS**, following a duly-noticed public hearing on February 24, 2026, the Planning Commission of the City of San Pablo voted 3 ayes, 1 nay, and 1 abstention to deny the Conditional Use Permit to allow a cannabis retail business use at an existing commercial building, PLAN2509-0004; and

**WHEREAS**, the applicant, Embarc, timely appealed the decision of the Planning Commission denying a Conditional Use Permit to allow a cannabis retail business use at an existing commercial building on February 26, 2026; and

**WHEREAS**, in accordance with San Pablo Municipal Code Section 17.16.080, the City Council held a *de novo* public hearing on April 6, 2026 regarding the appeal of the decision of the Planning Commission, and rendering a final decision on the matter to reverse the Planning Commission decision, grant the appeal, and approve the Conditional Use Permit for the cannabis retail business; and

**WHEREAS**, pursuant to the California Environmental Quality Act, the proposed approval of this conditional use permit has been determined to be categorically exempt pursuant to CEQA Guidelines Section 15301, Existing Facilities Class 1. This Class applies to projects within existing private structures, such as the existing commercial building suite where the new businesses is proposed to be located, with negligible or no expansion of uses; and,

**WHEREAS**, a public hearing notice has been provided by mail to the applicant, local affected agencies and to all property owners within 300 feet of the subject property, and has been published in the West County Times newspaper (West Contra Costa edition of the East Bay Times) in accordance with the requirements of Government Code Section 65091, and a public hearing was held on April 6, 2026, at which public testimony was considered.

**NOW, THEREFORE BE IT RESOLVED** that the City Council of the City of San Pablo has reviewed the proposed appeal, conducted a public hearing, and based on all evidence in the record and testimony presented does hereby reverse the Planning Commission's decision, grant the applicant's appeal, and approve the Conditional Use Permit for a retail cannabis business use at 14501 San Pablo Avenue. The City Council's decision is based on the following findings:

- A. The proposed project is categorically exempt from the provisions of the California Environmental Quality Act, in accordance with CEQA Guidelines pursuant to Section 15301, Existing Facilities, Class 1. This Class applies to existing private structures, such as the existing commercial building suite where the new businesses is proposed to be located, with negligible or no expansion of uses.
- B. The granting of the Conditional Use Permit to allow a Cannabis, Retail use at an existing commercial building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the city because the use is unobtrusive and will not generate significant neighborhood impacts due to its modest size and location within an existing commercial building.
- C. The proposed cannabis retail business use would serve to re-occupy a commercial building that has been vacant since 2024 and would offer an additional form of retail use in the area.
- D. The proposed cannabis retail business use would be responsive to General Plan policies calling for the provision of complementary services within a neighborhood, because it will be of a small scale, located within an established commercial building, and easily accessible to residents in the area. It would also comply with policies calling for use of crime prevention through environmental design strategies to help enhance public safety and reduce calls for service. It also responds to Economic Development policies that call for identifying new market opportunities and economic revenue sources for the city.
- E. The proposed Cannabis, Retail Business use would be compliant with Zoning Ordinance development regulations pertaining to such uses as it would not result in any changes to the building structure, would require only minimal parking, which is well provided for at this location, and is not located within any of the land use buffers identified in Section 17.62.130(F)(2).
- F. Public notice of hearing has been given by mail to the applicant, local affected agencies and to all property owners within 300 feet of the subject property and has been published in the West County Times (West Contra Costa edition of the East Bay Times) in accordance with the requirements of Government Code Section 65905.

**BE IT FURTHER RESOLVED** that the City Council approves the Conditional Use Permit to allow for a cannabis retail business use subject to the following Conditions of Approval:

1. The Use Permit shall become null and void within one year of the effective date of approval if not applied.

2. The use shall be conducted in substantial compliance with the plans and application, submitted on September 18, 2025, and on file with the Community Development Department, PLAN2509-0004. Minor deviations from these submitted plans may be approved by the Zoning Administrator if it is determined the overall intent of this Conditional Use Permit and all Conditions of Approval remain fulfilled.
3. The applicant shall maintain a current business license for each business on the site issued by the City of San Pablo at all times.
4. The applicant shall make any improvements to the facility that may be required by the San Pablo Building Official pursuant to the inspection for a San Pablo business license.
5. Any new signage added to the building must be reviewed and approved by the Planning Division and a sign permit is required by the Building Division.
6. Non-compliance with any of the conditions of approval constitutes grounds for revocation of the business license and use permit.
7. The applicant shall obtain all necessary City of San Pablo Building and Public Works permits as well as any outside agency permits for water, waste, fire, County Environmental Health and any proposed work and shall submit payment of fees and agency permits and approval from relevant agencies for any proposed interior work.
8. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times. All scrap materials shall be stored in a container and shall be removed regularly.
9. Any and all construction improvements shall be designed by the appropriately licensed design professional. The standards imposed by the City for the private improvements shall be considered as minimum requirements and the standards may be increased by the design professional where judgment and prudence dictate.
10. Prior to construction, Applicant shall submit to City's Public Works Engineering Division, product and material cut sheets for key components, including storm drain pipes, manholes, inlets, street lights and pull boxes, if applicable.
11. Any abandoned pipes and other abandoned miscellaneous improvements shall be removed.
12. Any equipment such as backflow prevention devices, meters and transformers shall be screened with landscaping or other means, and not visible from the public right of way.

13. All applicable ordinances, regulations and requirements of Federal, State and local governments shall be met, including all the requirements of the City of San Pablo Municipal Code. All noise, building permit and grading permit requirements shall be met as applicable.

### **Operator Permit Performance Standards**

14. Hours of operation. Cannabis retail businesses shall not be open to the public and shall not conduct retail sales or deliveries before eight a.m. or after ten p.m. on any day of the week.
15. Odor control. Odors shall be contained on the property on which the cannabis retail business is located.
16. Security, alarm, and video surveillance. Cannabis retail businesses must have security cameras installed, which shall be motion-sensored and capable of recording activity on the premises, including entry points to the property, and within all buildings and structures on the premises, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area. Security cameras shall record twenty-four hours per day, seven days per week. The premises shall be equipped with, and at all times be monitored by, a secure web-based surveillance system. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual committing a crime on the premises and the ability to capture license plates entering and exiting the premises. The operator shall provide the chief of police remote access to any on-site web-based video surveillance to monitor remotely at any time. The City of San Pablo will only monitor video surveillance for law enforcement purposes related to in-progress or past crimes committed on the premises of a cannabis retail business. Additionally:
  - a. Areas where cannabis is stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.
  - b. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation, processing, or labeling activities.
  - c. At least one camera must be dedicated to record the access points to the secured surveillance recording area. At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.
  - d. Surveillance video shall be kept for a minimum of ninety days in a format that can be easily accessed for viewing. Operators shall be required to cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request. Motion-sensor lighting and alarms shall be required and shall be professionally installed and monitored to ensure the safety of persons and to protect the premises from theft. Alarm

and surveillance systems shall be equipped with a failure notification system that provides prompt notification to the operator of any prolonged surveillance interruption or failure of the system. All surveillance equipment, records and recordings must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system or alarm system.

- e. An operator shall maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of any alarm installation company, and the name of any monitoring company. All monitoring companies shall be licensed by the California Bureau of Security and Investigative Services to monitor motion-sensor lighting and alarms. Off-site monitoring and video recording storage of the premises by the operator or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.
- f. All security measures installed on the premises shall have the capability to remain fully operational during a power outage.
- g. An operator shall maintain a minimum of a two-point security precaution that incorporates structures or physical barriers to regulate access to cannabis and money and prevents access of customers throughout the entire facility.
- h. Security guard(s) that are appropriately licensed by the California Bureau of Security and Investigative Services or approved equivalent shall be on-site during operational hours. Quantity and location of guard(s) shall be evaluated by the chief of police.
- i. Weapons and firearms are prohibited on the premises, unless authorized by the chief of police. This provision shall not apply to public officials engaged in official duty.
- j. Security measures shall be designed to ensure emergency access in compliance with fire safety standards.
- k. All structures used for cannabis retail business uses shall have locking doors, with commercial-grade non-residential locks, to prevent free access.
- l. Security measures shall prevent individuals from remaining on the premises of the cannabis retail business if they are not engaging in activities expressly related to the operations of the cannabis business.
- m. Bollards will be placed in close proximity to the vulnerable areas of the store, to include entrance and exit points, to prevent vehicles from targeting these areas. Depending on the site security plan, the chief of police can waive this requirement.
- n. Security measures shall include a transportation plan that details the procedures established for the safe and secure transport of cannabis, cannabis products, and currency to and from the cannabis retail business premises, including the transfer of currency for remitting city tax payments.
- o. Except for limited amounts of cannabis products used for display purposes, samples, immediate sales, and other authorized uses, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault that meets approval of the chief of police. To the fullest extent possible,

all cannabis and cannabis products shall be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.

- p. Panic buttons shall be installed in all cannabis retail business premises with easy access by employees and all employees shall be properly trained on its use.
  - q. Any security bars installed on the windows or the doors of the cannabis business shall be installed only on the interior of the building in compliance with all applicable codes.
  - r. Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable provisions in this code.
  - s. Each cannabis retail business shall identify a liaison and provide contact information to the chief of police who shall be available at all times to meet with the chief of police regarding security measures and operational issues.
  - t. Minimum lighting level of one-foot candle shall be provided at building entrances. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. Exterior lighting on the premises shall be balanced to complement the security/surveillance systems to ensure all areas of the premises are visible, and shall provide increased lighting at all entrances to the premises. The lighting required shall be turned on from dusk to dawn. The site security plan shall include a photometric plan meeting these requirements and fixture details if new or upgraded lighting is required. Parking areas shall further meet all requirements of Chapter 17.56 of the Zoning Code.
17. Insurance coverage. Cannabis retail businesses shall maintain at all times commercial general liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for liabilities arising from the operations of the business (including the acts and omissions of its employees, consultants, contractors, and subcontractors), products and completed operations, property damage, death, bodily injury and personal and advertising injury with limits of at least two million dollars per occurrence. The general aggregate limit shall be twice the required occurrence limit. The CGL coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth herein. Cannabis businesses shall also maintain comprehensive automobile liability (owns, non-owned, hired) providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with limits of not less than one million dollars. The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the city shall be primary, and shall name the city, its officers, and employees and additional insured. The city's risk manager shall have the authority to modify the insurance requirements for all cannabis businesses, from time to time, is his

or her sole and absolute discretion.

18. Ledger. Cannabis retail businesses shall maintain, for a minimum of three years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including any in-kind contributions) as well as records of all operational expenditures and costs incurred by the permittee in accordance with generally accepted accounting practices and standards typically applicable to business records. Such ledger shall be made available to the city for inspection during business hours upon reasonable notice by the chief of police.
19. Inspections. To the extent permissible by law, the city shall have the right to enter and inspect any cannabis retail business for the purpose of ensuring compliance with the regulations of this section, provided that any such entry and inspection shall be conducted in a reasonable manner. The city shall also have the right to inspect any delivery vehicle for the purpose of ensuring compliance with the regulations of this section, provided that any such entry and inspection shall be conducted in a reasonable manner. Peace officers, whether in plain clothes or uniform, have the right to visit and inspect any cannabis business or delivery vehicle at any time during business hours without a search warrant, upon presentation of appropriate credentials. This includes inspection of all areas of the business premise or vehicle, including, but not limited to sales areas, back-of-house areas, storerooms, offices, closed or locked cabinets, safes, kitchens, and appurtenant buildings.
20. Notification. Within twenty-four hours after discovering any of the following, a cannabis retail business shall notify the police department:
  - a. Diversion, theft, loss, or any criminal activity involving cannabis or cannabis products or any agent or employee or permittee.
  - b. The loss or unauthorized alteration of records related to cannabis or cannabis products, customers, employees or agents.
  - c. Significant discrepancies identified between inventory records and inventory.
  - d. Any other material breach of security.
21. On-site consumption. Cannabis shall not be consumed on the premises of a cannabis retail business.
22. A cannabis retail business shall notify the chief of police within three days of receiving any notices of violation or other corrective action ordered by a state agency or other local licensing authority, and shall provide copies of relevant documents to the chief of police.
23. A cannabis retail business shall notify the chief of police within three days of any staffing changes. New employees shall be subject to the same requirements of the initial application process.

24. Deliveries. Deliveries from locations originating within San Pablo shall only be permitted by cannabis retail businesses which have been granted an operator permit by the city. Deliveries shall be subject to the following standards:
- a. Any person who delivers cannabis shall have in their possession a copy of all licenses and permits required by the state of California and the city.
  - b. A licensed cannabis retail business which is authorized to conduct deliveries in San Pablo shall provide to the chief of police a list of all vehicles to be used for delivery of cannabis and cannabis products, including the vehicle's make, model, year, license plate number and vehicle identification number. The cannabis business shall update the list prior to any vehicle being added to or removed from service.
  - c. Cash shall be prohibited as a form of payment for cannabis delivery transactions at the delivery location. Payments shall be made via credit card, check, or other means of cashless payment or a cash payment shall be made in advance at the cannabis retail business location.
  - d. Delivery vehicles shall not be marked or otherwise identified with advertisements, the name of the cannabis retail business, or any other distinctive marking associated with cannabis.
  - e. Delivery of cannabis shall be directly to the residence or business address of the designated recipient; deliveries to any other location are prohibited.
  - f. Deliveries shall occur only between the hours of eight a.m. and ten p.m.
25. No business operations or retail merchandise shall be visible from the exterior of a building where a cannabis retail business is located.
26. Cannabis retail businesses shall ensure that advertising and marketing of cannabis and cannabis products are not targeted to individuals less than twenty-one years of age.
27. Regular meetings. Cannabis business operators shall schedule and be available for an in-person meeting with city staff not less than once every 180 days. These meetings shall be used to discuss ongoing operation of the cannabis business and any modifications to the operating permit necessary to maintain peace, order, and welfare of the public. City staff may waive these meetings at its discretion.
28. Business shall reserve one seat on its Community Advisory Board for a neighborhood representative.
29. Operator qualifications. Cannabis retail business operators must meet the following qualifications:
- a. Operators must be twenty-one years of age or older.
  - b. Operators shall be subject to a background investigation by the chief of police at the time of application for a permit.

30. Failure to comply with any of the terms or conditions of this Use Permit is considered to be a violation of the City of San Pablo Municipal Code and is subject to the enforcement provisions prescribed by Chapter 17.10, Enforcement, and any and all other penalties and remedies that may be provided by law, including but not limited to revocation of this Conditional Use Permit.
31. Any Conditional Use Permit granted in accordance with the terms of the City of San Pablo Municipal Code may be revoked if any of the conditions or terms of such permit are violated, the use is discontinued, or if any law or ordinance is violated in connection therewith.
32. Indemnification: Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless the City of San Pablo and its agents, officers, or employees from any claim to attack, set aside, void or annul, the City's approval concerning this planning application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the applicant of any such claim, action, or proceeding and cooperate fully in the defense.
33. The operation of the Business shall be consistent with *Section 17.30.020 Alcoholic Beverage Sales* of the Zoning Ordinance, and any other applicable regulations in the San Pablo Municipal Code.
34. The applicant shall comply with all of the provisions of *Section 17.30.020 Alcoholic Beverage Sales*. Any significant changes in the business hours or increase in the type of operation must be reviewed and approved by the Planning Commission.
35. Obtain the necessary permits to sell off site distilled spirits from the Department of Alcohol Beverage Control.
36. The hours of operation shall be 6:00 A.M. - 12:00 A.M. daily, including hours of alcoholic beverage sales. Any subsequent request to increase the hours of the restaurant and/or alcohol sales requires an amendment to this Use Permit from the City of San Pablo, and in no event shall the hours of operation extend past midnight.
37. Indemnification: Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless the City of San Pablo and its agents, officers or employees from any claim to attack, set aside, void or annul, the City's approval concerning this planning application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the applicant of any such claim, action, or proceeding and cooperate fully in the defense.

**BE IT FURTHER RESOLVED** that the City Council of the City of San Pablo hereby grants a Conditional Use Permit for a Cannabis, Retail use at an existing commercial building located at 14501 San Pablo Avenue.

**BE IT FURTHER RESOLVED** that the foregoing recitations are true and correct, and are included herein by reference as findings.

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ADOPTED this 6<sup>th</sup> day of April 2026 by the following votes:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

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Dorothy Gantt, City Clerk

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Elizabeth Pabon-Alvarado, Mayor