

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: John Rahaim, Director, Planning Department
Todd Rufo, Director, Office of Economic and Workforce Development
Mavis Asiedu-Frimpong, Cannabis State Legalization Task Force
Barbara Garcia, Director, Department of Public Health
Tom Hui, Director, Department of Building Inspection

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: July 5, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Lee on June 27, 2017:

File No. 170783

Resolution extending interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor agriculture uses in Production, Distribution and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.

c: Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department
Ken Rich, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development
Greg Wagner, Department of Public Health
Colleen Chawla, Department of Public Health
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection

1 [Extending Interim Zoning Controls - Indoor Agriculture]

2
3 **Resolution extending interim zoning controls to require conditional use authorization**
4 **for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor**
5 **agriculture uses in Production, Distribution and Repair zoning districts; making**
6 **findings of consistency with the eight priority policies of Planning Code, Section 101.1;**
7 **and affirming the Planning Department's determination under the California**
8 **Environmental Quality Act.**

9
10 WHEREAS, Planning Code, Section 306.7 provides for the imposition and extension of
11 interim zoning controls to accomplish several objectives, including preservation of residential
12 and mixed residential and commercial areas in order to preserve the existing character of
13 such neighborhoods and areas, and development and conservation of the commerce and
14 industry of the City in order to maintain the economic vitality of the City, to provide its citizens
15 with adequate jobs and business opportunities, and to maintain adequate services for its
16 residents, visitors, businesses and institutions; and

17 WHEREAS, Policy 2 of the eight priority policies of the General Plan and of Planning
18 Code, Section 101.1 establishes a policy "That existing housing and neighborhood character
19 be conserved and protected in order to preserve the cultural and economic diversity of our
20 neighborhoods"; and

21 WHEREAS, Indoor Agriculture uses, as defined in Planning Code Section 102, and
22 other indoor agriculture uses frequently involve cultivation of medical cannabis; and

23 WHEREAS, California's Proposition 64, the Adult Use of Marijuana Act (AUMA), was
24 passed by the voters on November 8, 2016, permitting commercial cultivation of cannabis for
25 nonmedical purposes, subject to a state licensing requirement; and

1 WHEREAS, Production, Distribution and Repair (PDR) zoning districts are areas in
2 which commercial cannabis cultivation businesses may wish to locate; and

3 WHEREAS, The office of Mayor Edwin M. Lee, the Planning Department, the Office of
4 Economic and Workforce Development and industry stakeholders are considering the
5 recommendations of the San Francisco Cannabis State Legalization Task Force and
6 engaging in broader discussions about amending and updating the existing Planning Code
7 land use controls to allow for cultivation, manufacturing and distribution while ensuring San
8 Francisco's policy goals for PDR-zoned areas are maintained; and

9 WHEREAS, An over-concentration of commercial cannabis cultivation businesses may
10 have a negative impact on the character of neighborhoods within PDR zoning districts, and on
11 the commerce and industry of the City, including within PDR zoning districts; and

12 WHEREAS, It is important that commercial cannabis cultivation operations adequately
13 address public health, safety and general welfare concerns, for example, by having adequate
14 security measures; and

15 WHEREAS, On January 24, 2017, the Board adopted Resolution No. 15-17, which
16 imposed interim zoning controls requiring that any proposed indoor Agriculture use, as
17 defined in Planning Code Section 102, as well as any other proposed indoor agriculture use,
18 that is located in a PDR zoning district must obtain conditional use authorization from the
19 Planning Commission, pursuant to Planning Code Section 303; and

20 WHEREAS, The circumstances that led to the adoption of Resolution No. 15-17 still
21 persist today; and

22 WHEREAS, The extension of the interim zoning controls adopted by the Board in
23 Resolution No. 15-17 advances and is consistent with Policy 2 of the priority policies set forth
24 in Planning Code Section 101.1, in it addresses the impacts of proposed cannabis cultivation
25 businesses on neighborhood character in PDR zoning districts; and

1 WHEREAS, With respect to priority policies 1, 3, 4, 5, 6, 7 and 8, the Board finds that
2 extending these interim zoning controls does not, at this time, have an effect upon these
3 policies, and thus, will not conflict with said policies; and

4 WHEREAS, Adoption of this extension of interim zoning controls will allow the Board of
5 Supervisors time to consider how to regulate commercial cannabis cultivation in PDR zoning
6 districts; and

7 WHEREAS, The Board has considered the impact on the public health, safety, peace,
8 and general welfare if the extension of interim zoning controls proposed herein is not
9 imposed; and

10 WHEREAS, The Board has determined that the public interest will be best served by
11 extension of these interim zoning controls at this time, to ensure that the legislative scheme
12 that may be ultimately adopted is not undermined during the planning and legislative process
13 for permanent controls; and

14 WHEREAS, The Planning Department has determined that the actions contemplated in
15 this Resolution are in compliance with the California Environmental Quality Act (California
16 Public Resources Code Section 21000 et. seq.); said determination is on file with the Clerk of
17 the Board of Supervisors in File No. _____ and is hereby affirmed and incorporated by
18 reference as though fully set forth; now, therefore, be it

19 RESOLVED, That pursuant to Planning Code Section 306.7, the City hereby requires
20 that, as of the effective date of this Resolution, any proposed indoor Agriculture use, as
21 defined in Planning Code Section 102, as well as any other proposed indoor agriculture use,
22 that is located in a PDR zoning district must obtain conditional use authorization from the
23 Planning Commission, pursuant to Planning Code Section 303; and, be it

24 FURTHER RESOLVED, That the extension of these interim zoning controls advances
25 and is consistent with Policy 2 of the priority policies set forth in Planning Code, Section

1 101.1, in that it requires consideration of a proposed cannabis cultivation business's impacts
2 on neighborhood character in PDR zoning districts, by requiring conditional use authorization
3 for this new use; and be it

4 FURTHER RESOLVED, That this extension of interim zoning controls shall remain in
5 effect for twelve months from the expiration of the interim controls established by Resolution
6 No. 15-17, or until the adoption of permanent legislation regulating commercial cannabis
7 cultivation in PDR zoning districts, whichever first occurs; and be it

8 FURTHER RESOLVED, That this extension of interim zoning controls shall not apply to
9 a building permit application for a new indoor Agriculture use, as defined in Planning Code
10 Section 102, or for any other proposed new indoor agriculture use, where, on or before
11 November 8, 2016, the permit applicant either (1) applied to the Department of Building
12 Inspection (DBI) for the building permit, or (2) attempted to apply to the Department of Public
13 Health for the building permit and was not referred to DBI until after November 8, 2016; and
14 be it

15 FURTHER RESOLVED, That any expansion of an existing indoor Agriculture use, as
16 defined in Planning Code Section 102, or of any other indoor agriculture use, shall not be
17 subject to these controls so long as the space in which the expansion would occur is on the
18 same parcel as, contiguous with, and accessed directly from, the existing establishment.
19

20
21 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

22
23 By: 

24 VICTORIA WONG
Deputy City Attorney

25 n:\legana\as2017\1700739\01202301.docx