

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448
FROM: John Carroll, Assistant Clerk, Public Safety and Neighborhood Services Committee,
Board of Supervisors
DATE: April 28, 2021
SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Public Safety and Neighborhood Services Committee

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 210421

Ordinance amending the Police Code to 1) allow Cannabis Business Permit applicants to qualify as Equity Incubators by supporting Equity Applicants prior to Cannabis Business Permit issuance and not only after permit issuance; 2) specify that Equity Incubators must provide support to Equity Applicants with which the Equity Incubators and their Owners have no ownership or profit-sharing arrangement in order to qualify as Equity Incubators; 3) give first priority for permit application processing to Equity Applicants that are sole proprietors or whose business is 100% owned by a combination of Owners that are verified Equity Applicants, give second processing priority to holders of Temporary Cannabis Business Permits that commit to sharing use of their facilities with one or more Equity Applicants, and add to the sixth (formerly fourth) processing priority Applicants that previously held Temporary Cannabis Permits, in addition to those that currently hold such permits; 4) prohibit transfers of more than a 50% ownership interest in a Cannabis Business for five years after the Office of Cannabis acknowledges receipt of an application for a Cannabis Business Permit for that Cannabis Business, instead of ten years from the date of permit issuance; 5) exempt transfers of ownership in a Cannabis Business triggered by an Owner's death from transfer limits that would otherwise apply; 6) require that a Cannabis Business seeking a permit amendment tied to reduction in the combined ownership interest of all verified Equity Applicants in that Cannabis Business below 20% meet substantial equity commitments as a condition of amending the permit; 7) establish that an Applicant's withdrawal of a Cannabis Business Permit application, unlike the abandonment of an application, will not bar a subsequent application from that Applicant from qualifying for priority processing; and 8) authorize the Director of the Office of Cannabis, at any point after an Applicant has submitted a Cannabis Business Permit application, to require an Applicant to submit needed information or documentation within 45 days, and declare an application abandoned if the Applicant fails to comply with the deadline without showing good cause for the failure; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102.

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RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_

\_\_\_\_\_ No Comment

\_\_\_\_\_ Recommendation Attached

\_\_\_\_\_
Chairperson, Small Business Commission

1 [Police Code - Cannabis Regulation]

2

3 **Ordinance amending the Police Code to 1) allow Cannabis Business Permit applicants**  
4 **to qualify as Equity Incubators by supporting Equity Applicants prior to Cannabis**  
5 **Business Permit issuance and not only after permit issuance; 2) specify that Equity**  
6 **Incubators must provide support to Equity Applicants with which the Equity Incubators**  
7 **and their Owners have no ownership or profit-sharing arrangement in order to qualify**  
8 **as Equity Incubators; 3) give first priority for permit application processing to Equity**  
9 **Applicants that are sole proprietors or whose business is 100% owned by a**  
10 **combination of Owners that are verified Equity Applicants, give second processing**  
11 **priority to holders of Temporary Cannabis Business Permits that commit to sharing**  
12 **use of their facilities with one or more Equity Applicants, and add to the sixth (formerly**  
13 **fourth) processing priority Applicants that previously held Temporary Cannabis**  
14 **Permits, in addition to those that currently hold such permits; 4) prohibit transfers of**  
15 **more than a 50% ownership interest in a Cannabis Business for five years after the**  
16 **Office of Cannabis acknowledges receipt of an application for a Cannabis Business**  
17 **Permit for that Cannabis Business, instead of ten years from the date of permit**  
18 **issuance; 5) exempt transfers of ownership in a Cannabis Business triggered by an**  
19 **Owner's death from transfer limits that would otherwise apply; 6) require that a**  
20 **Cannabis Business seeking a permit amendment tied to reduction in the combined**  
21 **ownership interest of all verified Equity Applicants in that Cannabis Business below**  
22 **20% meet substantial equity commitments as a condition of amending the permit; 7)**  
23 **establish that an Applicant's withdrawal of a Cannabis Business Permit application,**  
24 **unlike the abandonment of an application, will not bar a subsequent application from**  
25 **that Applicant from qualifying for priority processing; and 8) authorize the Director of**

1 the Office of Cannabis, at any point after an Applicant has submitted a Cannabis  
2 Business Permit application, to require an Applicant to submit needed information or  
3 documentation within 45 days, and declare an application abandoned if the Applicant  
4 fails to comply with the deadline without showing good cause for the failure; affirming  
5 the Planning Department’s determination under the California Environmental Quality  
6 Act; and making findings of consistency with the General Plan, and the eight priority  
7 policies of Planning Code, Section 101.1.

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
11 **Board amendment additions** are in double-underlined Arial font.  
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
13 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Findings.

17 (a) The Planning Department has determined that the actions contemplated in this  
18 ordinance comply with the California Environmental Quality Act (California Public Resources  
19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
20 Supervisors in File No. \_\_\_\_ and is incorporated herein by reference. The Board affirms this  
21 determination.

22 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
23 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
24 with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The  
25 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

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Section 2. Article 16 of the Police Code is hereby amended by revising Sections 1604, 1606, 1608, 1610, 1615, and 1621.5, to read as follows:

**SEC. 1604. EQUITY PROGRAM.**

\* \* \* \*

(c) Equity Incubators. The Equity Program shall offer priority permit processing, as provided in Section 1606, to Equity Incubators. For purposes of this Article 16, an Equity Incubator is an Applicant that does not qualify as an Equity Applicant, but that submits with its Cannabis Business Permit application a Cannabis Equity Incubator Agreement in which it identifies no less than one Equity ~~Operator~~Applicant in which, or in whose Cannabis Business, the Equity Incubator and its Owner(s) have no ownership interest or profit-sharing arrangement; agrees to provide any such identified Equity ~~Operator~~Applicant commercial space and security resources or, in either or both cases, the fair market value of same on a continuous basis for a total of no less than three years, beginning at any time after the Director verifies that the Equity Applicant has received all necessary approvals to begin building out its commercial space for use as a Cannabis Business; and commits to comply with the following additional operating requirements~~during its first three years in operation as a Cannabis Business~~ on a continuous basis for no less than three years, beginning no later than the date the Equity Incubator begins its operation as a Cannabis Business:

(1) Ensure that at least 30% of all Business Work Hours are performed by Local Residents. Business Work Hours performed by residents of states other than California shall not be considered in calculation of the number of Business Work Hours to which this requirement applies;

(2) Ensure that at least 50% of the Equity Incubator’s employees satisfy the requirements of subsection (b)(4) of this Section 1604;

1 (3) Provide a community investment plan demonstrating engagement with  
2 businesses and residents located within 500 feet of the site of the proposed Cannabis  
3 Business;

4 (4) Provide the identified Equity ~~Operator~~ Applicant, directly or indirectly, with  
5 community outreach services, security services for the Equity ~~Operator's~~ Applicant's Premises,  
6 and any support necessary for the Equity ~~Operator~~ Applicant to comply with the Good Neighbor  
7 Policy required in Section 1609(b)(19); and

8 (5) Comply with one of the following additional operating requirements:

9 (A) Submit to the Director for review and approval a written, actionable  
10 "Equity Incubator Plan" describing how the Equity Incubator will encourage and support the  
11 establishment and growth of Equity Applicants ~~who have been awarded Cannabis Business Permits~~  
12 ~~("Equity Operators")~~, in which, or in whose Cannabis Business, the Equity Incubator Applicant and its  
13 Owner(s) have no ownership interest or profit sharing arrangement, including but not limited to any  
14 Equity ~~Operator~~ Applicant identified in the Equity Incubator Plan, by, among other things,  
15 providing business plan guidance, operations consulting, personnel, and or technical  
16 assistance. The services listed in the Equity Incubator Plan must be enumerated, and include  
17 an estimated dollar value of those services. The aggregate dollar value of the services must  
18 equal or exceed the sum of (i) 10% of the rent for, or, if the Equity Incubator owns the Equity  
19 Incubator's Premises, 10% of the rental market value of, the Equity Incubator's Premises, and  
20 (ii) the annual total costs of security services at the Equity Incubator's premises. On or before  
21 March 1 of each year, the Equity Incubator shall submit to the Director an annual report  
22 covering the prior calendar year, signed by both the Equity Incubator and the Equity  
23 ~~Operator~~ Applicant, describing the services provided under this subsection (c)(5)(A); or

24 (B) Provide an Equity ~~Operator~~ Applicant in which, or in whose Cannabis  
25 Business, the Equity Incubator Applicant and its Owner(s) have no ownership interest or profit-sharing

1 arrangement with rent-free commercial space ~~owned or leased by the Equity Incubator~~ either  
2 adjacent to the Equity Incubator's Premises or off-site, in which the Equity ~~Operator~~Applicant  
3 may conduct its Cannabis Business. If such rent-free commercial space is provided off-site,  
4 the Equity Incubator must provide the greater of 800 square feet or the equivalent of at least  
5 10% of the square footage of the Equity Incubator's Premises. If such rent-free commercial  
6 space is provided adjacent to the Equity Incubator's Premises, the Equity Incubator must  
7 provide either 800 square feet or the equivalent of at least 10% of the square footage of the  
8 Equity Incubator's Premises. The Equity Incubator's provision of this rent-free commercial space to  
9 an Equity Applicant may begin at any time after the Director verifies that the Equity Applicant has  
10 received all necessary approvals to begin building out its commercial space for use as a Cannabis  
11 Business, and the three-year minimum period in which the Equity Incubator must continue to provide  
12 rent-free space to the Equity Applicant shall be dated from the Equity Applicant's earliest use of that  
13 rent-free space.

14  
15 **SEC. 1606. APPLICATIONS FOR CANNABIS BUSINESS PERMITS.**

16 \* \* \* \*

17 (c) The Office of Cannabis shall review and process applications for Cannabis  
18 Business Permits in an order that reflects the Applicant's priority category:

19 (1) First priority: applications from Equity Applicants that, independently or in  
20 combination with one or more other Equity Applicants, hold a 100% ownership interest in the  
21 Cannabis Business for which they have applied for a Cannabis Business Permit;

22 (2) Second priority: applications from current Temporary Cannabis Business  
23 Permitees that demonstrate to the satisfaction of the Director that they meet all of the following  
24 criteria:

1                    (A) Hold Type 6, Type 7, or Type N licenses, within the meaning of 17 C.C.R.  
2 40118, as may be amended from time to time, and current approval from the California Department of  
3 Public Health to operate as a “shared-use facility,” as defined in 17 C.C.R. 40190, as may be amended  
4 from time to time;

5                    \_\_\_\_\_ (B) Have current agreements allowing for use of a shared-use facility owned or  
6 leased by the Permittee by one or more current holders of Type S licenses, as defined in 17 C.C.R.  
7 40190, as may be amended from time to time, that qualify as Equity Applicants under Section 1604(b)  
8 of this Article 16, and that are not owned or controlled by any Owner of the Permittee that owns or  
9 leases the shared-use facility; and

10                   \_\_\_\_\_ (C) Commit in the agreements described in subsection (c)(2)(B), above, to use of  
11 their shared-use facility by one or more Equity Applicants to a degree that the Director finds to be  
12 reasonable, taking into account the available space within the facility, the current use of the facility  
13 space by the Permittee’s business, and the demand for shared-use facilities among Equity Applicants.

14                   \_\_\_\_\_ (3) Third priority: all Equity Applicants that do not meet the criteria for first or second  
15 priority processing;

16                    (24) ~~Second~~Fourth priority: applications from Equity Incubators;

17                    (35) ~~Third~~Fifth priority: applications from Applicants that meet the requirements  
18 of Section 1606(a)(4) or 1606(a)(6).

19                    (46) ~~Fourth~~Sixth priority: applications from Applicants that were operating in  
20 compliance with the Compassionate Use Act of 1996 before September 1, 2016 or that meet  
21 the requirements of Section 1606(a)(5), or that hold or previously held Temporary Cannabis  
22 Business Permits under Section 1605(d);

23                    (57) ~~Fifth~~Seventh priority: applications that demonstrate a commitment on the  
24 part of the Applicant to provide benefits to the community in which the Cannabis Business is  
25

1 located, including but not limited to workforce opportunities and community benefits  
2 contributions; and

3 (68) ~~Sixth~~Eighth priority: all other applications.

4 \* \* \* \*

5  
6 **SEC. 1608. TRANSFER OF PERMIT; PORTABILITY OF PERMIT; SALE OF**  
7 **CANNABIS BUSINESS; CHANGE IN OWNERSHIP; INTERIM CANNABIS BUSINESS**  
8 **PERMITS.**

9 \* \* \* \*

10 (c) **Ownership; Changes in Ownership; Changes in Form or Structure.**

11 \* \* \* \*

12 (4) A Permittee seeking a permit amendment as required under this subsection  
13 (c) shall pay the required filing fee for a permit amendment and provide such information, from  
14 the categories of information described in Section 1609, as may be required by the Director.  
15 The decision to grant or deny a permit amendment shall be entrusted to the Director's  
16 discretion in the same manner, and subject to the same criteria, as the decision to grant or  
17 deny a permit as set forth in Section 1615, except as set forth in subsection (c)(9), below.

18 (5) Notwithstanding any other provision of this subsection (c), prior to the  
19 award of a permanent Cannabis Business Permit and for ~~a ten~~five-year~~s~~ period  
20 thereafter following the date on which the Director acknowledges receipt of an application for a  
21 Cannabis Business Permit, an aggregate ownership interest of 50% or more in a Permittee may  
22 not be transferred to any Person or combination of Persons who were not Owners of the  
23 Permittee at the time that a Cannabis Business Permit was awarded under this Article 16.  
24 This restriction shall be cumulative, as to each Permittee, across any permits (whether  
25 temporary or permanent) issued under this Article 16. In the event that, prior to the award of a



1 permanent Cannabis Business Permit or within ~~ten~~five years ~~thereafter~~from the date on which the  
2 Director acknowledges receipt of the application for the relevant Cannabis Business Permit, an  
3 aggregate ownership interest of 50% or more in a Permittee is transferred to any Person or  
4 combination of Persons who were not Owners of the Permittee at the time that a Cannabis  
5 Business Permit was awarded, the Permittee shall promptly surrender the permit to the  
6 Director. This restriction shall not apply to any testamentary or intestate transfer of ownership  
7 triggered by an Owner's death. This obligation is not dependent on the Director's requesting the  
8 surrender, but arises by operation of law on the sale of the Cannabis Business. If the  
9 Permittee fails to surrender the permit to the Director, the Director may, after giving the  
10 Permittee notice by mail and electronically of the proposed action and an opportunity to  
11 respond, revoke the permit.

12 \* \* \* \*

13 (9) Notwithstanding any other provision of this subsection (c), a Permittee must  
14 obtain a permit amendment if a change in ownership results in a decrease in an Equity  
15 Applicant's ~~Ownership Interest~~ ownership interest, as defined in Section 1604(b), in the Cannabis  
16 Business, a change in the Equity Applicant's role as Chief Executive Officer or member of the  
17 Board of Directors, or a material change in the degree of the Equity Applicant's participation in  
18 the direction, control, or management of the Cannabis Business. Applications for a permit  
19 amendment in accordance with this ~~§~~subsection 1608(c)(9) must include the terms of the  
20 change in ownership. The Director shall require, as a condition of granting a permit amendment  
21 under this subsection where the combined ownership interest in the Cannabis Business by all verified  
22 Equity Applicants following the amendment would total less than 20%, that the Cannabis Business  
23 commit to take one or more specific actions to support the City's equity goals as described in Section  
24 1604(a) on an ongoing basis through the life of the Cannabis Business Permit. Applications for such a  
25 permit amendment shall include a detailed written description of the proposed equity action(s), the

1 dates by which the Cannabis Business will take the action(s), an estimated dollar value for each action,  
2 and the dollar amount of gross sales of cannabis by the Cannabis Business during the most recently  
3 completed fiscal year. The Director shall not approve such permit amendment unless the Director  
4 finds that that proposed action(s) represent a substantial commitment to equity by the Cannabis  
5 Business for the life of the Cannabis Business Permit, taking into consideration the dollar amount of  
6 gross sales of cannabis by the Cannabis Business during the most recently completed fiscal year, and  
7 the Director's assessment of the likely impact of the proposed action(s) in support of the City's equity  
8 goals. In approving such permit amendment, the Director shall include as conditions of the amended  
9 permit specified equity action(s), and a further requirement that the Cannabis Business provide annual  
10 reports to the Director on or before February 1 of each year for the life of the Cannabis Business  
11 Permit, documenting the Cannabis Business's action(s) taken during the prior calendar year to satisfy  
12 all permit conditions. Actions a Cannabis Business may propose in its permit application to satisfy the  
13 equity commitment required upon a reduction in the combined ownership interest in the Cannabis  
14 Business by all verified Equity Applicants below 20% include but are not limited to the following:  
15 \_\_\_\_\_ (A) Contributing, on an annual basis, an amount of cash, in-kind goods,  
16 services, and/or technical assistance equivalent to 1% of the gross sales of cannabis by the Cannabis  
17 Business during the most recently completed fiscal year prior to the submission of the application for  
18 permit amendment to one or more community organizations that serve equity goals, as described in  
19 Section 1604(a), and in which the Cannabis Business has no ownership or other financial interest;  
20 \_\_\_\_\_ (B) Providing training, mentorship, and employment opportunities to workers  
21 who meet at least three of the criteria set forth in Section 1604(b)(4);  
22 \_\_\_\_\_ (C) Ensuring that a substantial portion of Cannabis-related products promoted  
23 and/or sold by the Cannabis Business are sourced from businesses that are one of the following: (i)  
24 Equity Applicants that have been awarded Cannabis Business Permits ("Equity Operators"); or (ii)  
25 Cannabis Businesses that have been verified as the local equivalent of Equity Applicants or Equity

1 Operators in jurisdictions outside San Francisco with a local equity program, as defined in Section  
2 26240(e) of the California Business and Professions Code, as may be amended from time to time;  
3 and/or

4 (D) Providing financial support, technical assistance, rent-free commercial  
5 space, and/or other support to one or more Equity Operators or Equity Applicants in which, or in  
6 whose Cannabis Businesses, no Owner of the Cannabis Business seeking a permit amendment has any  
7 ownership interest or other financial interest.

8 \* \* \* \*

9  
10 **SEC. 1610. WITHDRAWAL OF APPLICATION.**

11 An Applicant may withdraw an application at any time prior to the Office's issuance or  
12 denial of a Cannabis Business Permit. Requests to withdraw an application shall be submitted  
13 to the Office in writing, dated, and signed by the Person who submitted and signed the  
14 application. The Office shall not refund application fees for a withdrawn application. An  
15 Applicant that has withdrawn an application may reapply and pay a new application fee at any  
16 time following the withdrawal of an application, ~~but such application shall not receive priority~~  
17 ~~review as set forth in subsection (e) of Section 1606.~~ An Applicant's withdrawal of an application shall  
18 not impact the eligibility for priority review, as set forth in subsection (c) of Section 1606, of a  
19 subsequent application submitted by the same Applicant.

20  
21 **SEC. 1615. ISSUANCE AND DENIAL OF CANNABIS BUSINESS PERMITS.**

22 (a) At any time after receiving an Applicant's application, the Director may notify the  
23 Applicant in writing that the Applicant must submit further specified information or documentation  
24 needed to process or evaluate the application within 45 days. If the Applicant fails to provide the  
25 required information or documentation within 45 days of receiving such notice, the application will be

1 deemed abandoned and will not receive further consideration, unless the Director finds that the  
2 Applicant has demonstrated, prior to the expiration of the 45 days, that good cause exists to extend the  
3 Applicant's deadline to provide required information or documentation. After reviewing an  
4 Applicant's application, the Director shall notify the Applicant in writing that the application is  
5 complete and accepted for further review, or incomplete. If the Director deems the application to be  
6 incomplete, the Applicant shall supply the information or documentation that is required for the  
7 application to be deemed complete. The Applicant shall have 90 days from the date that the Director  
8 provides notification that the application is incomplete to provide all required information and/or  
9 documentation. If the Applicant does not provide such information within 90 days, the application will  
10 be deemed abandoned and will not receive further consideration. Applicants that abandon an  
11 application may submit a new one, subject to payment of a new application fee. Applicants  
12 that submit an application following the abandonment of an earlier application shall not  
13 receive priority review, as set forth in subsection (c) of Section 1606. The Director may issue  
14 multiple 45-day notices to a single Applicant, as needed, at any time after receiving an Applicant's  
15 application and prior to issuing the Article 16 permit sought by that application. After the Director has  
16 determined that no further information or documentation is required from an Applicant for evaluation  
17 of the application, the Director shall notify the Applicant in writing that the application is complete.

18 (b) Upon review of a complete application and consideration of information provided  
19 by the Referring Departments, the Director shall either grant or deny a permit, as specified in  
20 more detail in subsections (c) and (d).

21 \* \* \* \*

22  
23 **SEC. 1621.5. EVENTS.**

24 \* \* \* \*

25

1 (e) **Equity Criteria for Cannabis Event Permit Applicants.** As a condition of permit  
2 issuance, Applicants for Cannabis Event Permits must submit to the Director for review and  
3 approval a written “Event Permit Equity Plan,” in which the applicant describes the specific  
4 actions it will take to support the City’s equity goals as described in Section 1604(a), the dates  
5 by which the applicant will take the listed actions, and an estimated dollar value for each of  
6 the actions. Actions a Cannabis Event Permit applicant may take to satisfy this requirement  
7 include but are not limited to the following:

8 \* \* \* \*

9 (3) Ensuring that a substantial portion of Cannabis-related products showcased  
10 and sold at the Event are provided by businesses that are one of the following: Equity  
11 Operators, as defined in Section 1604(c)(~~5~~)(A2)(C); Medical Cannabis Dispensary permit  
12 holders that have been verified as Equity Applicants under Section 1604; or Cannabis  
13 Businesses in jurisdictions outside San Francisco with a local equity program, as defined in  
14 Section 26240(e) of the California Business and Professions Code, *as may be amended from*  
15 *time to time*, that are classified as Equity Operators or the equivalent under the governing law  
16 of that jurisdiction; and/or

17 (4) Donating cash, in-kind goods, services, and/or technical assistance to  
18 community organizations that serve equity goals.

19  
20 Section 3. Effective Date. This ordinance shall become effective 30 days after  
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
23 of Supervisors overrides the Mayor’s veto of the ordinance.

1           Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the “Note” that appears under  
6 the official title of the ordinance.

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:     /s/ Sarah A. Crowley      
11       SARAH A. CROWLEY  
12       Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Police Code - Cannabis Regulation]

**Ordinance amending the Police Code to 1) allow Cannabis Business Permit applicants to qualify as Equity Incubators by supporting Equity Applicants prior to Cannabis Business Permit issuance and not only after permit issuance; 2) specify that Equity Incubators must provide support to Equity Applicants with which the Equity Incubators and their Owners have no ownership or profit-sharing arrangement in order to qualify as Equity Incubators; 3) give first priority for permit application processing to Equity Applicants that are sole proprietors or whose business is 100% owned by a combination of Owners that are verified Equity Applicants, give second processing priority to holders of Temporary Cannabis Business Permits that commit to sharing use of their facilities with one or more Equity Applicants, and add to the sixth (formerly fourth) processing priority Applicants that previously held Temporary Cannabis Permits, in addition to those that currently hold such permits; 4) prohibit transfers of more than a 50% ownership interest in a Cannabis Business for five years after the Office of Cannabis acknowledges receipt of an application for a Cannabis Business Permit for that Cannabis Business, instead of ten years from the date of permit issuance; 5) exempt transfers of ownership in a Cannabis Business triggered by an Owner's death from transfer limits that would otherwise apply; 6) require that a Cannabis Business seeking a permit amendment tied to reduction in the combined ownership interest of all verified Equity Applicants in that Cannabis Business below 20% meet substantial equity commitments as a condition of amending the permit; 7) establish that an Applicant's withdrawal of a Cannabis Business Permit application, unlike the abandonment of an application, will not bar a subsequent application from that Applicant from qualifying for priority processing; and 8) authorize the Director of the Office of Cannabis, at any point after an Applicant has submitted a Cannabis Business Permit application, to require an Applicant to submit needed information or documentation within 45 days, and declare an application abandoned if the Applicant fails to comply with the deadline without showing good cause for the failure; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

**Existing Law**

Section 1604(c) of the Police Code allows a non-Equity Applicant to qualify for priority processing as an Equity Incubator by providing rent-free commercial space or equivalent financial support to an Equity Operator, which is an Equity Applicant that has received a Cannabis Business Permit, and continuing to provide such support to the Equity Operator for a minimum of three years, in addition to other commitments by the Equity Incubator. Section 1604(c) does not allow an Equity Incubator to qualify as such based in whole or in part on

support the Equity Incubator provides to an Equity Applicant before that Equity Applicant receives its Cannabis Business Permit.

Section 1604(c) of the Police Code allows a non-Equity Applicant to qualify for priority processing as an Equity Incubator by providing support to any Equity Applicant, including an Equity Applicant in which the Equity Incubator has an ownership interest or profit-sharing arrangement.

Section 1606(c) of the Police Code sets forth the following processing priorities for Cannabis Business Permit applications: (1) Equity Applicants; (2) Equity Incubators; (3) Applicants that operated in compliance with the Compassionate Use Act of 1996 and were forced to discontinue operations due to federal prosecution or the threat of federal prosecution, and applicants that registered with the Office of Cannabis (“OOC”) as pre-existing non-conforming operators; (4) Medical Cannabis Dispensaries, current holders of Temporary Cannabis Business Permits, and Applicants that were operating in compliance with the Compassionate Use Act of 1996 as of September 1, 2016; (5) Applicants showing a commitment to provide community benefits; and (6) all other applications.

Section 1608(c)(5) of the Police Code prohibits transfer of an aggregate ownership interest of 50% or more in a Permittee to any Person that was not an Owner of the Permittee at the time of Cannabis Business Permit issuance for ten years from the date of Permit issuance. This section does not include any exception for testamentary or intestate transfers of ownership triggered by an Owner’s death.

Section 1608(c)(9) of the Police Code requires a Permittee to obtain a permit amendment if a change in ownership results in a decrease in an Equity Applicant’s ownership interest in the Cannabis Business, or a change in the Equity Applicant’s role or participation in the direction, control or management of the Cannabis Business, but this section does not specify criteria the OOC Director should apply in determining whether to grant or deny such permit amendment.

Section 1610 of the Police Code provides that, if an Applicant withdraws an application and subsequently submits a new application, the new application shall not qualify for priority processing under Section 1606(c). The same consequence would apply if the Applicant abandoned the application, rather than withdrawing the application, and there is therefore little incentive for an Applicant to withdraw an application the Applicant does not intend to pursue.

Section 1615 of the Police Code gives the OOC Director a single opportunity to notify an Applicant that their application is incomplete, and gives the Applicant a single 90-day window in which to remedy any deficiencies before the application is deemed abandoned.

#### Amendments to Current Law

This ordinance would amend section 1604(c) of the Police Code to allow a non-Equity Applicant to qualify for priority processing as an Equity Incubator by providing rent-free



commercial space or equivalent financial support to an Equity Applicant, beginning at any time after the OOC Director verifies that the Equity Applicant has received all necessary approvals to begin building out its commercial space for use as a Cannabis Business, and continuing for three years from the Equity Applicant's earliest use of the rent-free space, in addition to other commitments required of the Equity Incubator.

The ordinance would amend section 1604(c) of the Police Code to specify that a non-Equity Applicant may only qualify for priority processing as an Equity Incubator by providing support to an Equity Applicant in which, or in whose Cannabis Business, the Equity Incubator and its Owner(s) have no ownership interest or profit-sharing arrangement.

This ordinance would amend Section 1606(c) of the Police Code to establish the following processing priorities for Cannabis Business Permit applications: (1) Equity Applicants that are sole proprietors or whose Cannabis Business is 100% owned by a combination of Equity Applicants; (2) Temporary Cannabis Business Permittees that hold a shared manufacturing ("Type S") license with the state, and commit to share their manufacturing facility with one or more Equity Applicants; (3) all other Equity Applicants; (4) Equity Incubators; (5) Applicants that operated in compliance with the Compassionate Use Act of 1996 and were forced to discontinue operations due to federal prosecution or the threat of federal prosecution, and applicants that registered with the OOC as pre-existing non-conforming operators; (6) Medical Cannabis Dispensaries, current or former holders of Temporary Cannabis Business Permits, and Applicants that were operating in compliance with the Compassionate Use Act of 1996 as of September 1, 2016; (7) Applicants showing a commitment to provide community benefits; and (8) all other applications.

This ordinance would amend Section 1608(c)(5) of the Police Code to prohibit transfer of an aggregate ownership interest of 50% or more in a Permittee to any Person that was not an Owner of the Permittee at the time of Cannabis Business Permit issuance for five years following the OOC Director's acknowledgment of receipt of the Permittee's initial application, reduced from ten years from the date of Permit issuance. This ordinance would further amend Section 1608(c)(5) to exempt from this transfer restriction any testamentary or intestate transfer of ownership triggered by an Owner's death.

This ordinance would amend Police Code Section 1608(c)(9) to provide that the OOC Director shall require, as a condition of granting a permit amendment to allow the aggregate ownership interest of Equity Applicants in a Cannabis Business to decrease to less than 20%, that the Cannabis Business commit to one or more actions for the life of the Cannabis Business Permit that the Director finds constitute a substantial commitment to equity, and that may include monetary contributions to community organizations serving equity goals; training mentorship, and employment opportunities to workers that meet at least three of the equity criteria set forth in Section 1604(b)(4); promotion or sale of products sourced from Equity Operators; and/or providing rent-free commercial space or other financial or technical support to Equity Operators.

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This ordinance would amend Police Code Section 1610 to provide that an Applicant's withdrawal of an application – unlike abandonment of an application – shall not impact the eligibility for priority review of a subsequent application submitted by the same Applicant.

This ordinance would amend Police Code Section 1615 to enable the OOC Director to notify an Applicant at any time after receiving an application that the Applicant has 45 days to provide information or documentation the OOC requires to process the application, and to declare the application abandoned if the Applicant fails to provide required information or documentation and fails to demonstrate good cause for the failure to provide required information or documentation. The ordinance would enable the OOC Director to provide multiple 45-day notices to a single Applicant, in the Director's discretion, through the application process.

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