

BOARD of SUPERVISORS



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MEMORANDUM

TO: Katy Tang, Director
Small Business Commission, City Hall, Room 448
FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee
DATE: November 1, 2022
SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation 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. 220542

Ordinance amending the Planning Code to allow long-term parking of and overnight camping in vehicles and ancillary uses on parcels designated and authorized for use as Vehicle Triage Centers or Safe Parking Program sites, as a temporary use; extending the date for expiration of temporary cannabis retail uses to January 1, 2024; 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, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

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, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

___ No Comment

___ Recommendation Attached

Chairperson, Small Business Commission

c: Kerry Birnbach

1 [Planning Code - Temporary Safe Overnight Parking and Cannabis Retail Uses]

2

3 **Ordinance amending the Planning Code to allow long-term parking of and overnight**
4 **camping in vehicles and ancillary uses on parcels designated and authorized for use**
5 **as Vehicle Triage Centers or Safe Parking Program sites, as a temporary use;**
6 **extending the date for expiration of temporary cannabis retail uses to January 1, 2024;**
7 **affirming the Planning Department’s determination under the California Environmental**
8 **Quality Act; and making findings of consistency with the General Plan, and the eight**
9 **priority policies of Planning Code, Section 101.1, and public necessity, convenience,**
10 **and welfare findings pursuant to Planning Code, Section 302.**

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

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

19

20 Section 1.

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

(b) On _____, the Planning Commission, in Resolution No. _____,
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
3 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
5 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
6 Planning Commission Resolution No. _____.

7
8 Section 2. The Planning Code is hereby amended by revising Sections 190, 191 and
9 205.2, to read as follows:

10 **SEC. 190. CONVERSION OF MEDICAL CANNABIS DISPENSARIES TO CANNABIS**
11 **RETAIL ESTABLISHMENTS.**

12 **(a) Conversion of MCDs with Planning Commission Approval to Cannabis Retail**
13 **Uses.**

14 (1) An establishment may convert from the prior authorized Use at the property
15 to a Cannabis Retail Use by obtaining a building permit authorizing the change of Use, if the
16 establishment (to be termed a “Grandfathered MCD”) satisfies one of the following three
17 criteria:

18 (A) holds a valid final permit from the Department of Public Health to
19 operate as a Medical Cannabis Dispensary, pursuant to Section 3307 of the Health Code, as
20 of January 5, 2018;

21 (B) holds an approval for a Medical Cannabis Dispensary Use from the
22 Planning Department as of January 5, 2018; or

23 (C) submitted a complete application for a permit from the Department of
24 Public Health to operate as a Medical Cannabis Dispensary by July 20, 2017, and receives a
25 final permit.

1 (2) A Grandfathered MCD converting to a Cannabis Retail Use pursuant to this
2 Section 190 is not subject to

3 (A) a Conditional Use Authorization requirement for Cannabis Retail
4 Uses in the zoning district in which it is located;

5 (B) the locational restrictions for Cannabis Retail set forth in Section
6 202.2(a);

7 (C) the requirements of Section 311; or

8 (D) an application for discretionary review; provided however, that the
9 Planning Commission or Planning Department staff may initiate discretionary review.

10 (3) A Grandfathered MCD is subject to all other Planning Code requirements.

11 **(b) Establishment of Cannabis Retail Uses at Sites with MCD Applications**
12 **Pending Before the Planning Commission.**

13 (1) For the purposes of this subsection (b), a Pending MCD Applicant is an
14 applicant that submitted a complete application to the Department of Public Health to operate
15 a Medical Cannabis Dispensary by July 20, 2017, but that did not receive a permit or
16 authorization from the Planning Department to operate such Use as of January 5, 2018, and
17 that qualifies as either an Equity Applicant or an Equity Incubator pursuant to Section 1604 of
18 the Police Code.

19 (2) A Pending MCD Applicant may establish a Cannabis Retail Use at the
20 property where the application to operate a Medical Cannabis Dispensary was proposed by
21 obtaining building permit authorization for the change of use.

22 (3) Except as specified in this subsection (b), a Pending MCD Applicant that
23 obtains a change of use permit for a Cannabis Retail Use is subject to all Planning Code
24 requirements, including but not limited to the neighborhood notification requirement set forth in
25

1 Section 311 and Conditional Use Authorization if required for a Cannabis Retail Use by the
2 zoning district in which the property is located.

3 (4) A Pending MCD Applicant is not subject to the minimum radius requirement
4 between Cannabis Retailers or between a Cannabis Retailer and a Medicinal Cannabis
5 Retailer, as set forth in subsection 202.2(a), but is subject to all other locational requirements
6 for Cannabis Retail set forth in subsection 202.2(a).

7 (c) All other applications for a change of use from a Medical Cannabis Dispensary Use
8 to a Cannabis Retail Use shall be subject to the zoning controls for the district in which the
9 Medical Cannabis Dispensary is located.

10 (d) This Section 190 shall expire by operation of law on January 1, 2023~~4~~. Upon its
11 expiration, the City Attorney shall cause this Section 190 to be removed from the Planning
12 Code.

13 **SEC. 191. AUTHORIZATION OF TEMPORARY CANNABIS ~~SALES~~RETAIL USES.**

14 (a) A Grandfathered MCD, as defined in Section 190, that receives a permit to
15 operate as a Medical Cannabis Dispensary from the Department of Public Health before
16 December 31, 2020 shall be deemed a Temporary Cannabis ~~Sales~~Retail Use, as defined in
17 Section 205.2. Upon expiration of the Temporary Cannabis ~~Sales~~Retail Use authorization, the
18 land use authorization for the parcel will revert to the original authorization to operate as a
19 Medical Cannabis Dispensary Use, unless the Planning Department or Planning Commission
20 has issued a permanent authorization for a Cannabis Retail Use.

21 (b) This Section 191 shall expire by operation of law on January 1, 2022~~4~~. Upon its
22 expiration, the City Attorney shall cause this Section 191 to be removed from the Planning
23 Code.

1 **SEC. 205.2. TEMPORARY USES: ONE- TO ~~FOUR~~SIX-YEAR LIMIT.**

2 A temporary use may be authorized for the following uses as specified below~~a period not to~~
3 ~~exceed two years, or, in the case of a Temporary Cannabis Retail Use, for a period not to exceed four~~
4 ~~years, for any of the following uses:~~

5 **(a) Temporary authorization for a period not to exceed one year.**

6 Temporary Wireless Telecommunications Services (WTS) Facilities, if the following
7 requirements are met:

8 (1) The Planning Director determines that the Temporary WTS Facility shall be sited
9 and constructed so as to:

10 (A) avoid proximity to residential dwellings to the maximum extent feasible;

11 (B) comply with the provisions of Article 29 of the Police Code;

12 (C) be no taller than needed;

13 (D) be physically screened to the maximum extent feasible; and

14 (E) be erected for no longer than reasonably required.

15 (2) Permits in excess of 90 days for Temporary WTS Facilities operated for commercial
16 purposes shall be subject to Sections 311 and 312 of this Code, where applicable.

17 (3) The Planning Department may require, where appropriate, notices along street
18 frontages abutting the location of the Temporary WTS Facility indicating the nature of the facility and
19 the duration of the permit.

20 **(b) Temporary authorization for a period not to exceed two years.**

21 (1) Temporary structures and uses incidental to the construction of a group of
22 buildings on the same or adjacent premises;

23 (b2) Rental or sales office incidental to a new residential development, not
24 including the conduct of a general real estate business, provided that it be located within the
25 development, and in a temporary structure or part of a dwelling. A temporary use may be

1 authorized for a period not to exceed one year (including any extensions) for the following
2 year.

3 _____(e3) In any M-1 or M-2 District, an Automobile Wrecking use as defined in
4 Section 102 of this Code, provided if the operation would be a conditional use in the district in
5 question, that the Planning Director determines the operation will meet within 90 days of
6 commencing operation all conditions applicable to such use in that district.

7 ~~(d)~~

8 ~~Temporary Wireless Telecommunications Services (WTS) Facilities for a period of up to one~~
9 ~~year if the following requirements are met:~~

10 ~~_____ (1) the Planning Director determines that the Temporary WTS Facility shall be sited~~
11 ~~and constructed so as to:~~

12 ~~_____ (A) avoid proximity to residential dwellings to the maximum extent feasible;~~

13 ~~_____ (B) comply with the provisions of Article 29 of the Police Code;~~

14 ~~_____ (C) be no taller than needed;~~

15 ~~_____ (D) be screened to the maximum extent feasible; and~~

16 ~~_____ (E) be erected for no longer than reasonably required.~~

17 ~~_____ (2) Permits in excess of 90 days for Temporary WTS Facilities operated for commercial~~
18 ~~purposes shall be subject to Section 311 and 312 of this Code, where applicable.~~

19 ~~_____ (3) The Planning Department may require, where appropriate, notices along street~~
20 ~~frontages abutting the location of the Temporary WTS Facility indicating the nature of the facility and~~
21 ~~the duration of the permit.~~

22 (c) Temporary authorization for a period not to exceed five years, with exceptions as
23 specified herein.

24 (1) Vehicle Triage Centers or Safe Parking Program sites.

25

1 (A) On parcels designated and authorized, as applicable, for use as Vehicle
2 Triage Centers or Safe Parking Program sites, temporary long-term parking of and overnight camping
3 in vehicles, and ancillary uses in portable, temporary structures including administrative offices,
4 restrooms, showering or bathing facilities, kitchen or other food preparation facilities, and eating
5 areas, may be permitted, subject to compliance with all other Municipal Code requirements, including
6 but not limited to the Overnight Safe Parking Pilot Program, Administrative Code Chapter 119, Article
7 I.

8 (B) The Director may authorize up to two extensions of this temporary use for a
9 maximum of six months each, based on public health and safety considerations or delay in approval or
10 operation of the site as a Vehicle Triage Center or Safe Parking Program site.

11 **(d) Temporary authorization for a period not to exceed six years.**

12 ~~(2)~~ Temporary Cannabis Retail Use ~~for a period of up to four years~~, as provided by
13 Section 191, to be authorized no earlier than January 1, 2018 and to expire on January 1,
14 2022~~4~~. This is the only type of Temporary Use allowed for the sale of cannabis or cannabis
15 products.

16 ~~(f) On Assessor's Block 6973, Lot 039, long-term parking of and overnight camping in~~
17 ~~vehicles, and ancillary uses in portable, temporary structures including administrative offices,~~
18 ~~restrooms, showering or bathing facilities, kitchen or other food preparation facilities, and eating~~
19 ~~areas, may be permitted, subject to compliance with all other Municipal Code requirements, including~~
20 ~~but not limited to the Overnight Safe Parking Pilot Program, Administrative Code Chapter 119, Article~~
21 ~~I.~~

22
23 Section 3. Effective Date; Retroactivity.

24 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
25 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not

1 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
2 Mayor’s veto of the ordinance.

3 (b) Upon the effective date of this ordinance, Planning Code Section 205.2(d), as
4 amended by this ordinance, shall be retroactive to January 1, 2022.

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

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: /s/ Victoria Wong
16 VICTORIA WONG
17 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Temporary Safe Overnight Parking and Cannabis Retail Uses]

Ordinance amending the Planning Code to allow long-term parking of and overnight camping in vehicles and ancillary uses on parcels designated and authorized for use as Vehicle Triage Centers or Safe Parking Program sites, as a temporary use; extending the date for expiration of temporary cannabis retail uses to January 1, 2024; 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, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

Existing Law

Planning Code Section 205.2 permits temporary long-term parking and overnight camping in vehicles and ancillary uses on Assessor's Block 6973, Lot 039.

Planning Code Section 190 allows the conversion of certain Medical Cannabis Dispensary Uses to Cannabis Retail Uses, and expires by operation of law on January 1, 2023. Planning Code Section 191 authorizes Temporary Cannabis Sales Uses. Section 205.2 permits Temporary Cannabis Retail Uses through January 1, 2022.

Amendments to Current Law

This ordinance would amend Section 205.2 to allow temporary long-term parking and overnight camping in vehicles and ancillary uses on parcels designated and authorized, as applicable, for use as Vehicle Triage Centers and Safe Parking Program sites, for up to five years, plus up to two extensions of six months each.

This ordinance would also amend Section 190 to expire by operation of law on January 1, 2024; would amend Section 191 to change the term Temporary Cannabis Sales Uses to the term Temporary Cannabis Retail Uses, for consistency with the remainder of the Planning Code; and would amend Section 205.2 to permit Temporary Cannabis Retail Uses through January 1, 2024.

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Safai

Subject:

Temporary Uses - Safe Parking and Cannabis Retail

The text is listed:

Please see attached ordinance.

Signature of Sponsoring Supervisor:



For Clerk's Use Only