

BOARD of SUPERVISORS



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## MEMORANDUM

TO: John Rahaim, Director, Planning Department  
Todd Rufo, Director, Office of Economic and Workforce Development

FROM: *ell* Alisa Somera, Legislative Deputy Director  
*for* Land Use and Transportation Committee

DATE: November 22, 2016

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Lee on November 15, 2016:

**File No. 161241**

**Resolution creating 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: [alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org).

c: Scott Sanchez, Planning Department  
Lisa Gibson, Planning Department  
AnMarie Rodgers, Planning Department  
Aaron Starr, Planning Department  
Joy Navarrete, Planning Department  
Jeanie Poling, Planning Department  
Ken Rich, Office of Economic and Workforce Development  
Lisa Pagan, Office of Economic and Workforce Development

1 [Interim Zoning Controls - Indoor Agriculture]

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3 **Resolution creating interim zoning controls to require conditional use authorization for**  
4 **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.**

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

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

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

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

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

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

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

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

18           WHEREAS, These interim zoning controls advance and are consistent with Policy 2 of  
19 the Priority Policies set forth in Planning Code, Section 101.1, in that they address the impacts  
20 of proposed cannabis cultivation businesses on neighborhood character in PDR zoning  
21 districts; and

22           WHEREAS, With respect to Priority Policies 1, 3, 4, 5, 6, 7 and 8, the Board finds that  
23 these interim zoning controls do not, at this time, have an effect upon these policies, and thus,  
24 will not conflict with said policies; and

1           WHEREAS, Adoption of these interim controls will allow the Board of Supervisors time  
2 to consider how to regulate commercial cannabis cultivation in PDR zoning districts; and

3           WHEREAS, The Board has considered the impact on the public health, safety, peace,  
4 and general welfare if the interim controls proposed herein are not imposed; and

5           WHEREAS, The Board has determined that the public interest will be best served by  
6 imposition of these interim controls at this time, to ensure that the legislative scheme that may  
7 be ultimately adopted is not undermined during the planning and legislative process for  
8 permanent controls; and

9           WHEREAS, The Planning Department has determined that the actions contemplated in  
10 this Resolution are in compliance with the California Environmental Quality Act (California  
11 Public Resources Code, Section 21000 et. seq.); and

12           WHEREAS, Said determination is on file with the Clerk of the Board of Supervisors in  
13 File No. \_\_\_\_\_ and is hereby affirmed and incorporated by reference as though fully set  
14 forth; now, therefore, be it

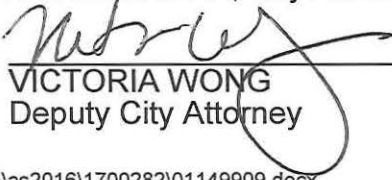
15           RESOLVED, That pursuant to Planning Code, Section 306.7, the City hereby requires  
16 that, as of the effective date of this Resolution, any proposed indoor Agriculture use, as  
17 defined in Planning Code, Section 102, as well as any other proposed indoor agricultural use,  
18 that is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

20           FURTHER RESOLVED, That these interim zoning controls advance and are consistent  
21 with Policy 2 of the Priority Policies set forth in Planning Code, Section 101.1, in that they  
22 require consideration of a proposed cannabis cultivation business's impacts on neighborhood  
23 character in PDR zoning districts, by requiring conditional use authorization for this new use;  
24 and be it

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FURTHER RESOLVED, That these interim controls shall remain in effect for eighteen months from the effective date of this Resolution, or until the adoption of permanent legislation regulating commercial cannabis cultivation in PDR zoning districts, whichever first occurs.

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

By:   
VICTORIA WONG  
Deputy City Attorney

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