

File No. 171042

Committee Item No. 1

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date November 13, 2017

Board of Supervisors Meeting

Date \_\_\_\_\_

### Cmte Board

- |                                     |                          |                                              |
|-------------------------------------|--------------------------|----------------------------------------------|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | Memorandum of Understanding (MOU)            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 - Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 700                                     |
| <input type="checkbox"/>            | <input type="checkbox"/> | Vacancy Notice                               |
| <input type="checkbox"/>            | <input type="checkbox"/> | Information Sheet                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Public Correspondence                        |

### OTHER

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- |                                     |                          |                                           |
|-------------------------------------|--------------------------|-------------------------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Small Business Commission Response</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Cannabis Equity Report</u>             |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Cannabis Medical Access Report</u>     |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____                                     |
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Completed by: Alisa Somera Date November 9, 2017

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Various Codes - Regulation of Cannabis Businesses]

2  
3 **Ordinance amending the Administrative, Business and Tax Regulations, Health, and**  
4 **Police Codes to comprehensively regulate commercial activities relating to the**  
5 **cultivation, manufacture, distribution, testing, sale, and delivery of medicinal and adult**  
6 **use cannabis by, among other things: 1) requiring businesses that engage in**  
7 **commercial cannabis activities to obtain a permit from the Office of Cannabis; 2)**  
8 **requiring the Director of the Office of Cannabis to establish ~~implement~~ an Equity**  
9 **Program to promote equitable ownership and employment opportunities in the**  
10 **cannabis industry by providing priority permitting for Equity Applicants and Equity**  
11 **Incubators, as defined; 3) defining eligibility for temporary and permanent cannabis**  
12 **business permits; 4) establishing priorities for the review of cannabis business permit**  
13 **applications; 5) establishing operating standards for cannabis businesses; 6)**  
14 **establishing criteria for granting, denying, suspending, and revoking cannabis**  
15 **business permits; 7) requiring all cannabis businesses to ensure that 50% of work**  
16 **hours are performed by San Francisco residents, and cannabis businesses with 10 or**  
17 **more employees to adopt labor peace agreements ~~incorporating state law governing~~**  
18 **~~commercial cannabis activities into local law for enforcement purposes~~; 8) authorizing**  
19 **the imposition of fines and penalties for violation of local and state laws governing**  
20 **cannabis businesses, and establishing procedures by which cannabis businesses may**  
21 **appeal a fine or permit penalty; 9) ~~prohibiting the smoking and vaping of cannabis on~~**  
22 **~~the premises of all cannabis businesses, except select Medicinal Cannabis Retailers~~**  
23 **~~and Cannabis Retailers, as authorized by the Department of Public Health;~~ 9) allowing**  
24 **pre-existing non-conforming cannabis operators to register with the Office of Cannabis**  
25 **and apply for cannabis business permits in 2018; 10) prohibiting the consumption of**

1 cannabis and cannabis products, ~~other than by smoking or vaping~~, on the premises of  
2 all cannabis businesses, except Storefront Cannabis Retailers and Cannabis  
3 Microbusinesses that obtain consumption permits from the Department of Public  
4 Health; 11) prohibiting until January 1, 2019, tours of cannabis cultivators,  
5 manufacturers, and cannabis microbusinesses, and authorizing the Director of  
6 Cannabis to extend the prohibition on tours, or establish guidelines for the operation of  
7 tours; 12) prohibiting the acceptance of new applications for medical cannabis  
8 dispensary permits, starting January 1, 2018; 13) allowing medical cannabis  
9 dispensaries to sell adult use cannabis, starting January 1, 2018, and prohibiting  
10 medical cannabis dispensaries from cultivating cannabis under the authority of a  
11 medical cannabis dispensary permit, starting April 1, 2018; 14) establishing a sunset  
12 date of December 31, 2018, for Article 33 of the Health Code (“Medical Cannabis Act”);  
13 15) requiring the Department of Public Health to implement an ongoing public health  
14 education campaign about the safe consumption and health benefits of cannabis; 16)  
15 requiring the Controller to submit a report to the Board of Supervisors within one year  
16 of the effective date of Article 16 recommending whether the issuance of cannabis  
17 business permits should be subject to any limits; 17) establishing an Equity Operator  
18 Fund to receive any monies appropriated for the purpose of assisting Equity  
19 Operators; and 185) eliminating the duty of the Clerk of the Board of Supervisors to  
20 send letters annually to state and federal officials requesting that cannabis be  
21 regulated and taxed; and affirming the Planning Department’s determination under the  
22 California Environmental Quality Act.

23 NOTE: Unchanged Code text and uncodified text are in plain Arial font.  
24 Additions to Codes are in *single-underline italics Times New Roman font*.  
25 Deletions to Codes are in *strikethrough italics Times New Roman font*.  
Board amendment additions are in double-underlined Arial font.  
Board amendment deletions are in ~~strikethrough Arial font~~.

1                   **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
2 subsections or parts of tables.

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

4                   Section 1. The Planning Department has determined that the actions contemplated in  
5 this ordinance comply with the California Environmental Quality Act (California Public  
6 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the  
7 Board of Supervisors in File No. 171042 and is incorporated herein by reference. The Board  
8 affirms this determination.

9  
10                   Section 2. The Police Code is hereby amended by adding Article 16, consisting of  
11 Sections 1600 to 16398, to read as follows:

12                                   **ARTICLE 16: REGULATION OF CANNABIS**

13  
14                                   **SEC. 1600. FINDINGS AND PURPOSE.**

15                                   *(a) In 1996, the voters of California approved Proposition 215, The Compassionate Use Act,*  
16 *allowing persons in need of cannabis for specified medical purposes to obtain and use cannabis.*

17                                   *(b) In 2001, the City adopted Resolution No. 955-01, declaring San Francisco to be a*  
18 *“sanctuary for medical cannabis.” In 2005, the City enacted Ordinance No. 275-05, Health Code*  
19 *Article 33, known as the Medical Cannabis Act, which implemented a local regulatory scheme for*  
20 *Medical Cannabis Dispensaries operating in San Francisco.*

21                                   *(c) In 2006, the City enacted Ordinance No. 297-06, Administrative Code Chapter 96B, making*  
22 *cannabis offenses by adults the lowest law enforcement priority in San Francisco.*

23                                   *(d) On August 29, 2013, in response to the number of states seeking to legalize cannabis, the*  
24 *United States Department of Justice issued a memorandum known as the Cole Memo, outlining federal*  
25 *cannabis enforcement priorities and specifying that the federal government would continue to rely on*

1 states and local law enforcement agencies to address cannabis activity through enforcement of their  
2 own narcotics laws.

3 (e) The federal law enforcement priorities articulated in the Cole Memo align with many of San  
4 Francisco's priorities including: preventing the distribution of cannabis to minors; preventing  
5 cannabis sales revenue from going to criminal enterprises, gangs, and cartels; preventing the diversion  
6 of cannabis from states where it is legal to other states; preventing state-authorized cannabis activity  
7 from being used as a cover or pretext for the trafficking of other illicit drugs or activity; preventing  
8 violence and use of firearms in the cultivation and distribution of cannabis; preventing drugged driving  
9 and the exacerbation of other adverse public health consequences associated with cannabis use;  
10 preventing the cultivation of cannabis on public lands and the attendant public safety and  
11 environmental dangers posed by cannabis production on public lands; and preventing cannabis  
12 possession or use on federal property.

13 (f) On October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation  
14 and Safety Act ("MMRSA"), effective January 1, 2016, which established a comprehensive state  
15 licensing and regulatory framework for the cultivation, manufacturing, testing, distribution,  
16 transportation, dispensing, and delivery of medicinal cannabis, and which recognized the authority of  
17 local jurisdictions to prohibit or impose additional restrictions on commercial activities relating to  
18 medicinal cannabis. On June 27, 2016, Governor Brown signed into law Senate Bill 837, which  
19 amended MMRSA and renamed it the Medical Cannabis Regulation and Safety Act ("MCRSA").

20 (g) On November 8, 2016, the voters of California approved Proposition 64, the Control,  
21 Regulate, and Tax Adult Use of Marijuana Act (AUMA), which legalized the nonmedicinal use of  
22 cannabis for adults 21 years of age and older, created a state regulatory, licensing, and taxation system  
23 for non-medicinal cannabis businesses, and reduced penalties for cannabis-related crimes. San  
24 Francisco voters approved Proposition 64 at a rate of 74.3%, compared to 57.1% in the state overall.  
25

1           (h) On November 9, 2016, Mayor Lee issued Executive Directive 16-05, entitled "Implementing  
2 Prop 64: Adult Use of Marijuana Act," directing the Directors of Planning and Public Health, in  
3 collaboration with the San Francisco Cannabis State Legalization Task Force and other stakeholders,  
4 to lead the process of drafting the legislation required to fully and responsibly implement Proposition  
5 64, including ordinances that address land use, local permitting, safety, and youth access.

6           (i) On June 27, 2017, Governor Brown signed into law the Medicinal and Adult-Use Cannabis  
7 Regulations and Safety Act (MAUCRSA), effective immediately, reconciling MCRSA and Proposition  
8 64, unifying the adult-use and medicinal cannabis markets within the same regulatory regime, and  
9 making explicit the protection of the public to be the highest priority for all state licensing authorities  
10 in exercising their licensing, regulatory, and disciplinary functions under MAUCRSA. Under  
11 MAUCRSA, local jurisdictions may adopt and enforce ordinances to further regulate cannabis  
12 businesses, including zoning and permitting requirements and prohibitions on certain types of  
13 businesses.

14           (j) In 2015, the City enacted Ordinance No. 115-15, creating the San Francisco Cannabis State  
15 Legalization Task Force ("the Task Force") to advise the Board of Supervisors, the Mayor, and other  
16 City departments on matters relating to the potential legalization of adult use cannabis. In December  
17 2016, the Task Force submitted its Year I Report, and made recommendations related to Public Safety  
18 and Social Environment, Land Use and Social Justice, and Regulation and City Agency Framework for  
19 the City's policymakers to consider.

20           (k) The Board of Supervisors intends to establish a comprehensive regulatory framework for  
21 medicinal cannabis and adult use cannabis. In furtherance of this goal, the Mayor's FY2017-2018  
22 budget, approved by the Board through its enactment of Ordinance No. 156-17, included  
23 appropriations for the establishment of an Office of Cannabis to coordinate with City departments and  
24 state agencies to develop policies and regulate the local cannabis industry to ensure that local public  
25 health, safety, and social justice goals are met. In addition, in July 2017, the City enacted Ordinance

1 No. 168-17, Administrative Code Chapter 2A, Article XXVI, to establish an Office of Cannabis; to  
2 authorize the Director of the Office of Cannabis to issue permits to cannabis-related businesses; and to  
3 require the Director to collect permit application and annual license fees following the enactment of an  
4 ordinance establishing the amounts of those fees.

5 (l) The Board of Supervisors is committed to ensuring that the perspectives of communities that  
6 have been historically and disproportionately affected by federal drug enforcement policies are  
7 included and considered in all cannabis policy decisions.

8 (m) The Board of Supervisors is committed to fostering equitable access to participation in the  
9 cannabis industry for San Francisco-based small businesses and individuals by promoting ownership  
10 and stable employment opportunities in the industry.

11 (n) Through this Article 16, the Board of Supervisors intends to develop a regulatory  
12 framework that: reduces the illegal market for cannabis; minimizes the chances of social harm by  
13 protecting and promoting the health of all San Franciscans; limits youth access and exposure to  
14 cannabis and cannabis products; ensures safe consumption; maintains the City's progressive clean air  
15 policies for residents, businesses, and their employees; creates equitable access to opportunities within  
16 the cannabis industry; and creates jobs and tax revenue for the City.

17  
18 **SEC. 1601. ADMINISTRATION AND ENFORCEMENT.**

19 (a) This Article 16 shall be administered and enforced by the Office of Cannabis. The Director  
20 may adopt rules, regulations, and guidelines to carry out the provisions and purposes of this Article,  
21 including, but not limited to: operating guidelines designed to further the goals of reducing the illegal  
22 market for Cannabis and Cannabis Products, protecting and promoting the health of all San  
23 Franciscans, limiting youth access and exposure to Cannabis and Cannabis Products, ensuring safe  
24 consumption of Cannabis and Cannabis Products, and creating equitable access to opportunities  
25

1 within the Cannabis industry; hearing procedures; and standards for the imposition of administrative  
2 penalties, permit suspensions and permit revocations.

3 (b) The Director is authorized to enter into agreements with State Licensing Authorities to  
4 enforce Division 10 of the California Business and Professions Code and its implementing regulations,  
5 consistent with Section 26202 of the California Business and Professions Code.

6  
7 **SEC. 1602. DEFINITIONS.**

8 As used in this Article 16, the following words or phrases shall mean:

9 "A-license" has the meaning set forth in Section 26001 of the California Business and  
10 Professions Code, as may be amended from time to time.

11 "A-licensee" has the meaning set forth in Section 26001 of the California Business and  
12 Professions Code, as may be amended from time to time.

13 "Adult Use Cannabis" means Cannabis or Cannabis Products intended for adults 21 years of  
14 age and over.

15 "Applicant" means an Owner applying for a Cannabis Business Permit under this Article 16.

16 "Bona Fide Order" means an order for the delivery of Cannabis or Cannabis Products to a  
17 Customer that includes this information supplied by the Customer: (a) the Customer's name and date of  
18 birth; (b) the date Delivery is requested and the address of the real property where the Customer would  
19 like the items Delivered; (c) an itemization of the Cannabis items proposed for Delivery and the  
20 amount, quantity, and/or volume of each such item; and (d) a statement that the Cannabis or Cannabis  
21 Product is not for the purpose of resale.

22 "Bona Fide Proof of Identity and Age" means: (a) a valid document issued by a federal, state,  
23 or local government, or subdivision or agency thereof, including, but not limited to, a valid motor  
24 vehicle operator's license, that contains the name, date of birth, description of physical characteristics,  
25 and photo of the person; (b) a valid passport issued by the United States or by a foreign government; or

1 (c) a valid identification card issued to a member of the United States Armed Forces that includes a  
2 date of birth and a photo of the person.

3 “Business Work Hours” means the total hours worked for a Cannabis Business by all  
4 workers, whether those workers are employed by the Cannabis Business or any  
5 subcontractor.

6 “Cannabis” has the meaning set forth in Section 26001 of the California Business and  
7 Professions Code, as may be amended from time to time.

8 “Cannabis Business” means any of the following: Cannabis Cultivation Facility, Cannabis  
9 Manufacturing Facility, Cannabis Testing Facility, Cannabis Distributor, Cannabis Microbusiness,  
10 Medicinal Cannabis Retailer, Cannabis Retailer, or Delivery-Only Cannabis Retailer.

11 “Cannabis Business Permit” means a permit to operate a specific type of Cannabis Business  
12 issued under this Article 16.

13 “Cannabis Business Registration Period” means the period of time during which Persons  
14 wishing to apply for Cannabis-Business Permits may register with the Office of Cannabis, as set forth  
15 in Section 1605 of this Article 16.

16 “Cannabis Cultivation Facility” means a fixed place of business where Cannabis is Cultivated  
17 for Commercial purposes.

18 “Cannabis Distributor” means a fixed place of business where Cannabis and/or Cannabis  
19 Products are Distributed for Commercial purposes between Cannabis Businesses holding State  
20 Cannabis Licenses.

21 “Cannabis Manufacturing Facility” means a fixed place of business where Cannabis Products  
22 are Manufactured for Commercial purposes.

23 “Cannabis Microbusiness” means a fixed place of business where Cannabis and/or Cannabis  
24 Products are Cultivated, Manufactured, Distributed, and Sold to Customers.

25 “Cannabis Products” has the meaning set forth in Section 26001 of the California Business and

1 Professions Code, as may be amended from time to time.

2 “Cannabis Retailer” means a fixed place of business where Cannabis and/or Cannabis  
3 Products are Sold to Customers.

4 “Cannabis Testing Facility” means a fixed place of business where Cannabis and/or Cannabis  
5 Products are tested for Commercial purposes.

6 “Canopy” means the designated area(s) at a permitted Premises that will contain Mature  
7 Plants.

8 “City” means the City and County of San Francisco.

9 “Commercial” means undertaken for Compensation.

10 “Commercial Cannabis Activity” includes the cultivation, possession, manufacture, processing,  
11 storing, laboratory testing, labeling, transporting, distribution, or sale of Cannabis or Cannabis  
12 Products for Compensation, as provided for in this Article 16.

13 “Commercial Vehicle” has the meaning set forth in Section 260 of the California Vehicle Code,  
14 as may be amended from time to time.

15 “Compensation” means money or anything of value made as a payment, loan, advance,  
16 donation, contribution, deposit, forgiveness of debt, or gift.

17 “Consuming” or “Consumption” means Smoking, eating, drinking, chewing, applying  
18 topically, or otherwise ingesting, but does not include Smoking.

19 “Cultivation” has the meaning set forth in Section 26001 of the California Business and  
20 Professions Code, as may be amended from time to time.

21 “Customer” has the meaning set forth in Section 26001 of the California Business and  
22 Professions Code, as may be amended from time to time.

23 “Delivery” has the meaning set forth in Section 26001 of the California Business and  
24 Professions Code, as may be amended from time to time.

1 "Delivery-Only Cannabis Retailer" means a fixed place of business from which Cannabis  
2 and/or Cannabis Products are Delivered and Sold to Customers.

3 "Director" means the Director of the Office of Cannabis, or his or her designee.

4 "Distribution" or "Distribute" has the meaning set forth in Section 26001 of the California  
5 Business and Professions Code, as may be amended from time to time.

6 "Hazardous material" has the meaning set forth in Section 1102 of the Health Code, as may be  
7 amended from time to time.

8 "Hazardous materials plan" has the meaning set forth in Section 1102 of the Health Code, as  
9 may be amended from time to time.

10 "Labor Peace Agreement" has the meaning set forth in Section 26001 of the California  
11 Business and Professions Code, as may be amended from time to time.

12 "Local Resident" means an individual who is domiciled, as defined by Section 349(b) of  
13 the California Elections Code, within the City for at least seven days immediately prior to  
14 commencing work for a Cannabis Business.

15 "M-license" has the meaning set forth in Section 26001 of the California Business and  
16 Professions Code, as may be amended from time to time.

17 "M-licensee" has the meaning set forth in Section 26001 of the California Business and  
18 Professions Code, as may be amended from time to time.

19 "Manufacture" has the meaning set forth in Section 26001 of the California Business and  
20 Professions Code, as may be amended from time to time.

21 "Mature Plant" means a Cannabis plant that is flowering.

22 "Medicinal Cannabis" has the meaning set forth in Section 26001 of the California Business  
23 and Professions Code, as may be amended from time to time.

24 "Medical Cannabis Dispensary" means a cooperative or collective operating under the  
25 authority of a permit issued by the Director of Health under Article 33 of the Health Code.

1 "Medicinal Cannabis Retailer" means a fixed place of business where Medicinal Cannabis  
2 and/or Medicinal Cannabis Products are Sold to individuals who qualify under California Health and  
3 Safety Code Sections 11362.7 et seq. to use Medicinal Cannabis.

4 "Office" means the Office of Cannabis or any successor office or agency.

5 "Owner" means any of the following:

6 (a) A Person with an aggregate ownership interest of 20% or more in the Person  
7 applying for a Cannabis Business Permit or a Permittee, unless the interest is solely a security, lien, or  
8 encumbrance;

9 (b) The chief executive officer of a nonprofit or other entity;

10 (c) A member of the board of directors of a nonprofit; or

11 (d) An individual who will be participating in the direction, control, or management of  
12 the Person applying for a permit.

13 "Permittee" means any Person to whom a Cannabis Business Permit is issued under this  
14 Article 16, and any authorized agent or designee of such Person.

15 "Person" includes any individual, firm, partnership, joint venture, association, corporation,  
16 limited liability company, estate, trust, business trust, receiver, syndicate, or any other entity, or other  
17 group or combination acting as a unit. Person includes both the plural and singular.

18 "Physician's Recommendation" has the meaning set forth in Section 26001 of the California  
19 Business and Professions Code, as may be amended from time to time.

20 "Pre-Existing Non-Conforming Operator" means a Cannabis Business that engaged in  
21 Commercial Cannabis Activities as of September 26, 2017, in a location where such activities  
22 were not authorized by or consistent with the Planning Code.

23 "Premises" has the meaning set forth in Section 26001 of the California Business and  
24 Professions Code, as may be amended from time to time.

1           "Processing" means the drying, curing, trimming, or packaging of Cannabis. "Processing"  
2 does not include the growing, planting, or harvesting of Cannabis.

3           "Referring Department" means any City department, agency, office, board, or commission that  
4 is required by this Article 16, or its implementing regulations, to review an Applicant's application for  
5 a Cannabis Business Permit prior to issuance of such permit by the Director.

6           "Security Guard" has the meaning set forth in Section 1060 of the Police Code, as may be  
7 amended from time to time.

8           "Security Plan" means a plan that adequately addresses the safety of persons and property at  
9 Cannabis Businesses, developed in consultation with the Police Department, and approved as a  
10 condition of the Cannabis Business Permit by the Director.

11           "Sell," "sale," and "to sell" have the meaning set forth in Section 26001 of the California  
12 Business and Professions Code, as may be amended from time to time.

13           "Smoke" or "Smoking" has the meaning set forth in Section 11362.3 of the California Health  
14 and Safety Code, as may be amended from time to time.

15           "State Cannabis License" means a license to engage in a Commercial Cannabis Activity, issued  
16 pursuant to Division 10 of the California Business and Professions Code.

17           "State Licensing Authority" means the state agency responsible for the issuance, renewal, or  
18 reinstatement of a State Cannabis License.

19           "Storefront Cannabis Retailer" means either of the following: Medicinal Cannabis Retailer or  
20 Cannabis Retailer.

21           "Temporary Medicinal Cannabis Business Permit" means a Permit issued by the Director  
22 under Section 1605 of this Article 16 authorizing the Temporary Permit holder to engage in time-  
23 limited Commercial Activities relating to Medicinal Cannabis and Medicinal Cannabis Products.

24           "Tobacco Products" has the meaning set forth in Section 19H.2 of the Health Code, as may be  
25 amended from time to time.

1 "Volatile Solvent" has the meaning set forth in Section 26130(b) of the California Business and  
2 Professions Code, as may be amended from time to time.

3  
4 **SEC. 1603. PERMITS REQUIRED.**

5 (a) It shall be unlawful to engage in any Commercial Cannabis Activity or to operate a  
6 Cannabis Business within the City without obtaining and maintaining:

7 (1) A permit therefor issued by the Office of Cannabis;

8 (2) A license therefor issued by a State Licensing Authority pursuant to Division 10 of  
9 the California Business and Professions Code; and

10 (3) Any such other licenses, permits, certifications, or registrations that may be  
11 required by State or City law.

12 (b) It shall be unlawful for any Person to engage in any Commercial Cannabis Activity for  
13 which a permit has been granted under this Article 16 if such permit has been revoked, or during any  
14 period in which such permit is suspended.

15 (c) If any license, permit, certification, or registration required for the operation of a Cannabis  
16 Business is denied, suspended, modified, revoked, or expired, the Cannabis Business and any Referring  
17 Department responsible for the action shall notify the Director of such action in writing within two  
18 business days.

19 (d) It shall be unlawful for any Person who is required to surrender a permit upon the sale of a  
20 Cannabis Business, as required by Section 1608 of this Article 16, to fail to do so.

21  
22 **SEC. 1604. EQUITY PROGRAM.**

23 (a) The Director, in consultation with the Human Rights Commission, shall  
24 establish implement an Equity Program designed to foster equitable access to participation in the  
25 cannabis industry, including equitable access to promotional and ownership opportunities in the

1 ~~industry.~~ The Equity Program shall be informed by the findings contained in the Equity Report,  
2 prepared in accordance with subsection (b)(5) of Section 2A.420 of the Administrative Code.  
3 The Equity Program shall offer priority permit processing and technical assistance to  
4 Applicants who meet Equity Criteria ("Equity Applicants") adopted by the Director.

5 (b) Equity Applicants. The Equity Program shall offer priority permit processing, as  
6 provided in Section 1606, to an individual who meets the following Equity Criteria ("Equity  
7 Applicant"):

8 (1) Is a natural person;

9 (2) During the period 1971-2009, lived for at least five years, either  
10 consecutively or in total, in San Francisco census tracts where at least 17% of the households  
11 had incomes at or below the federal poverty level, as determined by the Director;

12 (3) At the time of application, has assets, excluding non-liquid assets and  
13 retirement accounts, that do not exceed asset limits established by the Director;

14 (4) Submits an application for a Cannabis Business Permit in any of the  
15 following capacities:

16 (A) As the sole owner/operator of the Applicant;

17 (B) As an individual with an ownership interest of at least 40% in the  
18 corporate Applicant, and who is also the Chief Executive Officer of the corporate Applicant;

19 (C) As an individual with an ownership interest of at least 51% in the  
20 corporate Applicant;

21 (D) As the Executive Director or member of the board of directors of a  
22 not-for-profit Applicant where a majority of the members of the board of directors satisfy the  
23 requirements of subsections (b)(2), (3), and (5) of this Section 1604; or

24 (E) As an individual with a membership interest in an Applicant formed  
25 as a cooperative; and

1                   (5) Meets two or more of the following additional criteria:

2                   (A) At the time of application, is a member of a household that earns no  
3 more than 80% of the San Francisco Area Median Income, adjusted for household size;

4                   (B) Was arrested or convicted in the state of California during the period  
5 1971-2009 for a crime, provided the arrest or conviction meets any of the criteria set forth in  
6 subsection (a) of Section 4904 of the Police Code relating to the sale, possession, use,  
7 manufacture, or cultivation of cannabis;

8                   ~~(C) Was arrested or convicted in the state of California during the period~~  
9 ~~1971-2009 for a nonviolent crime other than a crime relating to the sale, possession, use,~~  
10 ~~manufacture, or cultivation of cannabis;~~

11                   ~~(DC) Since 1995, experienced housing insecurity in San Francisco, as~~  
12 ~~evidenced by eviction, foreclosure, or revocation of housing subsidy; or~~

13                   ~~(ED) Has a parent, sibling, or child who was convicted in the state of~~  
14 ~~California during the period 1971-2009 for a nonviolent crime, or for a crime relating to the~~  
15 ~~sale, possession, use, manufacture, or cultivation of cannabis; or~~

16                   ~~(FE) Attended a school under the jurisdiction of the San Francisco~~  
17 ~~Unified School District for 5 years, either consecutively or in total, during the period 1971-~~  
18 ~~2009.~~

19                   (c) **Equity Incubators.** The Equity Program shall offer priority permit processing, as  
20 provided in Section 1606, to Equity Incubators. For purposes of this Article 16, an Equity  
21 Incubator is an Applicant that does not qualify as an Equity Applicant, but that submits with its  
22 Cannabis Business Permit application a Cannabis Equity Incubator Agreement in which it  
23 commits to comply with the following additional operating requirements during its first three  
24 years in operation as a Cannabis Business:

1           (1) Ensure that at least 50% of all Business Work Hours are performed by Local  
2 Residents. Business Work Hours performed by residents of states other than California shall  
3 not be considered in calculation of the number of Business Work Hours to which this  
4 requirement applies;

5           (2) Ensure that at least 50% of the Equity Incubator's employees satisfy the  
6 requirements of subsections (b)(2), (3), and (5) of this Section 1604;

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

10           (4) Comply with one of the following additional operating requirements:

11                   (A) Provide technical assistance and business mentoring to Equity  
12 Applicants who have been awarded Cannabis Business Permits ("Equity Operators"); or

13                   (B) Provide an Equity Operator with rent-free commercial space owned  
14 or leased by the Equity Incubator in which the Equity Operator conducts its Cannabis  
15 Business. The rent-free commercial space must equal or exceed 800 square feet or the  
16 equivalent of 10% of the square footage of the Equity Incubator's Premises.

17  
18           **SEC. 1605. TRANSITION PROVISION FOR ACTIVITIES RELATING TO MEDICINAL**  
19 **CANNABIS.**

20           *(a) Cannabis Business Registration. The Office of Cannabis shall initiate a Cannabis*  
21 *Business Registration Period in order to collect information from Persons wishing to apply for*  
22 *Cannabis Business Permits. During the Cannabis Business Registration Period, such Persons shall*  
23 *have the opportunity to register with the Office of Cannabis, and to provide such information as may be*  
24 *required by the Director, including but not limited to:*

1                   (1) Information regarding the type(s) of Cannabis Business Permit(s) and State  
2 Cannabis License(s) for which they intend to apply in 2018;

3                   (2) Information about the location of the proposed Cannabis Business, including but not  
4 limited to proof that the property owner has authorized the use of the property as a Cannabis Business;

5                   (3) Copies of all applicable licenses, permits, certifications, and registrations issued by  
6 the City or the State and held by the Owner of the proposed business, including but not limited to  
7 Hazardous materials registrations, site permits, Business Registration Certificates, and/or Seller's  
8 Permits; and

9                   (4) Such other information, documents, and/or attestations as the Director may deem  
10 necessary or appropriate for registration.

11                   (b) Registration a Condition of Eligibility for Temporary Medicinal Cannabis Business  
12 Permit. Persons that do not register with the Office of Cannabis during the Cannabis Business  
13 Registration Period shall not be eligible to apply for or receive a Temporary Medicinal Cannabis  
14 Business Permit, as set forth in subsection (d) of this Section 1605.

15                   (c) Medical Cannabis Dispensaries.

16                   (1) To ensure the continued availability of Medicinal Cannabis for individuals who  
17 qualify under California Health and Safety Code Sections 11362.7 et seq. to use Medicinal Cannabis, a  
18 Medical Cannabis Dispensary that holds a valid permit to operate from the Department of Public  
19 Health as of the effective date of this Article 16 may continue to operate as a Medical Cannabis  
20 Dispensary at the location identified in its Medical Cannabis Dispensary permit and consistent with the  
21 terms of Article 33 of the Health Code, provided that:

22                   (A) The Owner of the Medical Cannabis Dispensary provides the Office of  
23 Cannabis with information identifying the type(s) of Cannabis Business Permits and State Cannabis  
24 Licenses for which the Owner intends to apply in 2018, and such other information as may be required  
25 by the Director;

1                   (B) The Owner of the Medical Cannabis Dispensary applies for and obtains a  
2 temporary or permanent State Cannabis License;

3                   (C) The Owner of the Medical Cannabis Dispensary applies for a Cannabis  
4 Business Permit within 30 days of the date that the Office of Cannabis makes such applications  
5 available; and

6                   (D) The Owner of a Medical Cannabis Dispensary agrees to surrender its  
7 Medical Cannabis Dispensary permit to the Department of Public Health upon being awarded a  
8 Cannabis Business Permit.

9                   (2) A Medical Cannabis Dispensary's permit to operate, as issued under Article 33 of  
10 the Health Code, shall expire as a matter of law when it is surrendered to the Department of Public  
11 Health, as set forth in subsection (c)(1)(D) of this Section 1605, or upon the sunset of Article 33,  
12 whichever occurs sooner.

13                   (d) Temporary Medicinal Cannabis Business Permits. The Office of Cannabis shall make  
14 applications available for Temporary Medicinal Cannabis Business Permits for all permit categories  
15 other than Storefront Cannabis Retailers. In order to be eligible for a Temporary Medicinal Cannabis  
16 Business Permit, an Applicant must do all of the following:

17                   (1) Submit an application, on a form to be prescribed by the Director;

18                   (2) Demonstrate compliance with the Cannabis Business Registration process set forth  
19 in subsection (a) of this Section 1605;

20                   (3) Demonstrate that as of September 26, 2017, the Applicant was engaging in  
21 Commercial Cannabis Activities relating to Medicinal Cannabis in the City and has continued to  
22 engage in such activities without interruption;

23                   (4) Demonstrate that the proposed Cannabis Business complies with the Planning  
24 Code;

1                   (5) Authorize and submit to the inspection of the proposed Premises by the Office of  
2 Cannabis, the Fire Department, the Department of Building Inspection, the Department of Public  
3 Health, and such other City departments, agencies, and offices as may be necessary to confirm that the  
4 proposed Cannabis Business will operate in compliance with law and with the applicable interim  
5 health and safety standards;

6                   (6) Acknowledge the obligation to pay any non-refundable application and/or  
7 inspection fees that the Office of Cannabis and/or the Referring Departments may impose in connection  
8 with the application for a Temporary Medicinal Cannabis Business Permit; and

9                   (7) Demonstrate that the proposed Cannabis Business complies with applicable interim  
10 health and safety standards developed by the Director in consultation with the Department of Building  
11 Inspection, the Fire Department, the Police Department, and the Department of Public Health. The  
12 interim health and safety standards shall be sufficient to protect the health and safety of employees,  
13 neighbors, and Customers of the proposed Cannabis Business, and to prohibit unlawful access to  
14 Cannabis and Cannabis Products by underage individuals and individuals who do not qualify to use  
15 Medicinal Cannabis.

16                   (e) Review, award, and denial of Temporary Medicinal Cannabis Business Permits. The  
17 Director shall ensure that the Premises are inspected by all relevant City Departments, and shall  
18 review all documentation submitted by the Applicant for the Temporary Medicinal Cannabis Business  
19 Permit in support of the application. If the application is incomplete, the Director shall advise the  
20 Applicant of the deficiencies, and give the Applicant 30 days in which to correct them. If the  
21 application is complete, the Director shall determine whether the Applicant has demonstrated  
22 compliance with subsection (d) of this Section 1605, and any implementing regulations. After  
23 determining whether the Applicant has met these standards, the Director shall either award, award  
24 with conditions, or deny the Temporary Medicinal Cannabis Business Permit.

1 **(f) Appeal of Denial of Application for Temporary Medicinal Cannabis Business Permit.**

2 The decision of the Director to award, award with conditions, or deny a Temporary Medicinal  
3 Cannabis Business Permit may be appealed to the Board of Appeals in the manner prescribed in  
4 Article 1 of the San Francisco Business and Tax Regulations Code.

5 **(g) Activities Authorized by Temporary Medicinal Cannabis Business Permit.** A Temporary  
6 Medicinal Cannabis Business Permit issued under this Section 1605 shall authorize the Permittee to  
7 engage in all of the activities authorized by a Cannabis Business Permit of the same category, as set  
8 forth in Sections 1623 - 1629 of this Article 16; provided, however, that a Temporary Medicinal  
9 Cannabis Business Permit shall not authorize the Permittee to engage in any Commercial Cannabis  
10 Activities relating to Adult Use Cannabis or Adult Use Cannabis Products.

11 **(h) Duration.** A Temporary Medicinal Cannabis Business Permit issued under this Section  
12 1605 shall be valid for a period of 120 days and may be extended for additional 90-day periods at the  
13 discretion of the Director. Notwithstanding the prior sentence, the Director shall not issue a new  
14 temporary permit after January 1, 2019, and shall not extend the term of a Temporary Cannabis  
15 Business Permit past January 1, 2019.

16 **(i) Temporary Medicinal Cannabis Business Permit does not guarantee rights regarding a**  
17 **permanent permit.** A Temporary Cannabis Business Permit does not obligate the Director to issue a  
18 permanent permit pursuant to Section 1615 of this Article 16, or create a vested right in the holder to  
19 either an extension of the temporary permit or to the granting of a subsequent permanent permit.

20 **(j) Duty to apply for permanent permit.** A Person that is awarded a Temporary Medicinal  
21 Cannabis Business Permit under this Section 1605 must apply for a Cannabis Business Permit, as set  
22 forth in Section 1606, within 30 days of when the Office of Cannabis makes applications for such  
23 permits available. The Director shall not accept applications for Temporary Medicinal Cannabis  
24 Business Permits after making applications for Cannabis Business Permits available.

1           (k) Registration of Pre-Existing Non-Conforming Operators. A Pre-Existing Non-  
2 Conforming Operator shall be eligible to receive technical assistance and apply for a  
3 Cannabis Business Permit, as set forth in Section 1606 of this Article 16, provided it registers  
4 with the Office of Cannabis during the Cannabis Business Registration Period and provides  
5 the following information and documentation:

6                   (1) Information regarding the type(s) of Commercial Cannabis Activities that the  
7 operator conducts;

8                   (2) Information regarding the type(s) of Cannabis Business Permit(s) and State  
9 Cannabis License(s) for which the operator intends to apply in 2018;

10                   (3) Demonstration that as of September 26, 2017, the operator was engaging in  
11 Commercial Cannabis Activities relating to Medicinal Cannabis in the City;

12                   (4) Copies of all applicable licenses, permits, certifications, and registrations  
13 issued by the City or the State and held by the Owner of the proposed business, including but  
14 not limited to Hazardous materials registrations, site permits, Business Registration  
15 Certificates, and/or Seller's Permits;

16                   (5) An affidavit or declaration made under penalty of perjury by an Owner  
17 certifying that the Pre-Existing Non-Conforming Operator will not engage in Commercial  
18 Cannabis Activities in a location where such activities are not authorized by or consistent with  
19 the Planning Code; and

20                   (6) Such other information, documents, and/or attestations as the Director may  
21 deem necessary or appropriate for registration.

22  
23           **SEC. 1606. APPLICATIONS FOR CANNABIS BUSINESS PERMITS.**

24           ~~(a) The Director shall not accept applications for Cannabis Business Permits, other~~  
25 ~~than Medicinal Cannabis Retailer permits, until he or she has adopted an Equity Program, as~~

1 set forth in Section 1604 of this Article 16.

2 (a) Prior to January 1, 2019, the Director shall issue Cannabis Business Permits only to  
3 Applicants that meet one or more of the following criteria:

4 (1) Qualify as an Equity Applicant or an Equity Incubator;

5 (2) Possess a valid permit to operate a Medical Cannabis Dispensary issued pursuant  
6 to Article 33 of the Health Code;

7 (3) ~~Was~~ issued a Temporary Medicinal Cannabis Business Permit under Section  
8 1605 of this Article 16;

9 (4) ~~Has~~ demonstrated to the Director's satisfaction that the Applicant operated in  
10 compliance with the Compassionate Use Act of 1996, and was forced to discontinue operations as a  
11 result of federal prosecution or threat of federal prosecution; ~~or~~

12 (5) Applied for a Medical Cannabis Dispensary Permit prior to September 26, 2017  
13 that required referral to and approval by the Planning Commission; ~~or~~

14 (6) Registered with the Office of Cannabis as a Pre-Existing Non-Conforming  
15 Operator, as set forth in subsection (k) of Section 1605 of this Article 16.

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

18 (1) First priority: applications from Equity Applicants;

19 (2) Second priority: applications from Applicants that were operating in  
20 compliance with the Compassionate Use Act of 1996 before September 1, 2016 and  
21 applications from Equity Incubators;

22 (3) Third priority: applications from Applicants, including Pre-Existing Non-  
23 Conforming Operators, that were operating in compliance with the Compassionate Use Act of  
24 1996 before September 1, 2016;

1                   ~~(34)~~ Fourth priority: applications that demonstrate a commitment on the part of  
2 the Applicant to provide benefits to the community in which the Cannabis Business is located, including  
3 but not limited to workforce opportunities and community benefits contributions; and

4                   ~~(45)~~ Fifth priority: all other applications.

5  
6                   **SEC. 1607. CANNABIS BUSINESS PERMITS.**

7                   (a) For the purpose of regulating the Commercial Cultivation, Manufacture, Testing,  
8 Distribution, Sale, and Delivery of Cannabis, the Director may issue the following permits:

9                   (1) Cannabis Cultivation Facility;

10                  (2) Cannabis Manufacturing Facility;

11                  (3) Cannabis Testing Facility;

12                  (4) Cannabis Distributor;

13                  (5) Cannabis Microbusiness;

14                  (6) Medicinal Cannabis Retailer;

15                  (7) Cannabis Retailer; and

16                  (8) Delivery-Only Cannabis Retailer.

17  
18                  **SEC. 1608. TRANSFER OF PERMIT; PORTABILITY OF PERMIT; SALE OF**  
19 **CANNABIS BUSINESS; CHANGE IN OWNERSHIP; INTERIM CANNABIS BUSINESS**  
20 **PERMITS.**

21                  (a) Permits Nontransferable. No permit issued under this Article 16 shall be transferable  
22 under any circumstances, including but not limited to the sale of the Cannabis Business.

23                  (b) Permits Portable. A Cannabis Business Permittee that closes its Cannabis  
24 Business may retain its Cannabis Business Permit for up to 18 months from the date of

1 closure, and may conduct Commercial Cannabis Activities under that permit at a different

2 Premises provided:

3 (A) There is no change in ownership;

4 (B) The Referring Departments complete all necessary review and inspections  
5 of the new Premises; and report their determinations to the Office of Cannabis;

6 (C) The Permittee demonstrates that the new Premises complies with the  
7 requirements of this Article 16 and the Planning Code; and

8 (D) The Director finds that there are no grounds for denial of a Cannabis  
9 Business Permit, as set forth in subsections (d)-(e) of Section 1615 of this Article 16.

10 (e)c) Sale of Cannabis Business. If a Permittee sells the Cannabis Business, the Permittee  
11 shall promptly surrender the permit to the Director. This obligation is not dependent on the Director's  
12 requesting the surrender, but arises by operation of law on the sale of the Cannabis Business. If the  
13 Permittee fails to surrender the permit to the Director, the Director may, after giving the Permittee  
14 notice by mail and electronically of the proposed action and an opportunity to respond, revoke the  
15 permit.

16 (e)d) Change in Ownership. A Permittee may change partners, shareholders, or other Owners  
17 of a Cannabis Business provided that: the sale or other transfer of ownership regardless of the form of  
18 ownership results in a new Person owning no more than 20% of the Cannabis Business, and the  
19 Permittee obtains an amendment to the Permit as provided in subsection (e)d)(2) of this Section 1608.  
20 If the sale or other transfer of ownership does not result in any Person (who did not already have such  
21 a percentage interest) having an ownership interest of 20% or more, the Permittee is not required to  
22 obtain a permit amendment.

23 (1) A Permittee seeking to amend a permit as required under this subsection (e)d) shall  
24 pay the required filing fee for a permit amendment and that portion of the information required for  
25 Applicants under Section 1609, as determined by the Director.

1                   (2) The Director shall determine within 30 days of the filing of a complete application  
2 for a permit amendment under this subsection (ed) whether to approve it. The Director shall approve  
3 the application unless the Director determines that denial is warranted under any of the grounds set  
4 forth in Section 1615. The Director shall notify the Permittee of the Director's decision electronically  
5 and either by mail or personal delivery.

6                   (de) Interim Cannabis Business Permits. Once the Director receives a surrendered Cannabis  
7 Business Permit to Operate, as set forth in subsection (b) of this Section 1608, the new Owner of the  
8 business may apply to the Director for an Interim Cannabis Business Permit, subject to any required  
9 Planning Department approvals, for a period not to exceed 90 days from the date of surrender (an  
10 "Interim Permit"). An Interim Permit may not be renewed. The Director may grant an Interim Permit  
11 provided that:

12                   (1) The new Owner has submitted a completed application for a Cannabis Business  
13 Permit to the Office of Cannabis, and a completed application for a State Cannabis License to the  
14 appropriate State Licensing Authority;

15                   (2) The new Owner applies for the same type of Cannabis Business Permit as was held  
16 by the prior Owner;

17                   (3) The Premises to which the Cannabis Permit applies complies with all existing  
18 health, safety, and fire ordinances, and applicable state laws governing Cannabis Businesses; and

19                   (4) An Interim Permit is necessary to ensure uninterrupted operations of a Cannabis  
20 Business at the Premises, or to minimize interruption of its operations.

21  
22                   **SEC. 1609. PERMIT APPLICATIONS.**

23                   (a) Application and Fee Required. Every Applicant for a Cannabis Business Permit shall:

24                   (1) File an application with the Director upon a form provided by the Director;  
25

1           (2) Provide such information as may be required by this Article 16 and any regulations  
2 promulgated thereto; and

3           (3) Pay a non-refundable application fee, unless the Applicant is eligible for a fee  
4 waiver or reduction, as authorized by ordinance.

5           (b) Information Required of All Applicants for Cannabis Business Permits. The application  
6 form for all Cannabis Business Permit Applicants shall require the Applicant to provide the following  
7 information and documentation:

8           (1) The name, street address, and parcel number of the business for which the permit is  
9 sought;

10           (2) The name and address of the Applicant as follows:

11           (A) If the Applicant is a corporation, the name of the corporation as shown in its  
12 articles of incorporation; the date and place of incorporation; and the name and address of each  
13 officer or director;

14           (B) If the Applicant is a Person other than a publicly traded company, the name  
15 and address of every Person that directly or indirectly owns or controls 20% or more of the assets,  
16 ownership interests, or voting interests in that Person;

17           (3) The name of and contact information for the manager(s) who will, directly or  
18 through designees, be on the Premises during hours of operation;

19           (4) The name and address of each Person who appears on the business registration  
20 certificate for the Business for which a permit is sought;

21           (5) The name and address of each Person who has or will have authority or control  
22 over the Business and a brief statement of the nature and extent of such authority and control, if the  
23 Applicant has not otherwise provided this information in the application;

24           (6) The name and address of the Person authorized to accept service of process;  
25

1                   (7) For all Applicants, a complete set of fingerprints in the manner required by the  
2 Director for the purpose of conducting a criminal background check; and such additional information  
3 concerning the criminal histories of Owners, as may be required by the Director;

4                   (8) Written verification that the owner of the real property where the Cannabis Business  
5 will be located consents to its use as a Cannabis Business. Such written verification must be signed by  
6 the property owner or the owner's agent;

7                   (9) Where the Applicant leases the Real Property, a copy of the lease;

8                   (10) A determination from the Planning Department that the proposed use as a  
9 Cannabis Business is in compliance with the Planning Code;

10                   (11) An Operations Plan that includes such information as may be required by the  
11 Director, including but not limited to:

12                               (A) An odor mitigation plan;

13                               (B) A Hazardous materials inventory;

14                               (C) A power plan;

15                               (D) A Security Plan;

16                               (E) A track and trace compliance plan;

17                               (F) A waste disposal plan; and

18                               (G) A water management plan.

19                   (12) A copy of the Applicant's business license, as required by Article 2 of the  
20 Business and Tax Regulations Code, or where pending, proof of application therefor; ~~For~~  
21 Applicants with 10 or more employees, a statement that the Applicant will enter into, or  
22 demonstrate that it has already entered into, and abide by the terms of a Labor Peace  
23 Agreement;

24                   (13) A copy of the Applicant's business registration certificate, as required by Article  
25 12 of the Business and Tax Regulations Code, or where pending, proof of application therefor;

1                   (14) A copy of the Applicant's Seller's Permit, as may be required by Section 6067 of  
2 the California Revenue and Taxation Code, or where pending, proof of application therefor;

3                   (15) A completed Permit Checklist upon a form provided by the Director;

4                   (16) A detailed, scaled diagram of the proposed Premises that shows the boundaries of  
5 the property and all entrances, exits, interior partitions, walls, rooms, doorways, and common or  
6 shared entryways. The diagram must show the areas in which all Commercial Cannabis Activity will  
7 take place, including but not limited to areas where access will be limited to employees of the Cannabis  
8 Business and Customer access will be prohibited. If the proposed Premises consists of only a portion  
9 of property, the diagram shall reflect the Premises used for Cannabis activity and describe the use for  
10 the remaining portion of the property;

11                   (17) Disclosure of all other previous and current Cannabis-related licenses and permits  
12 issued by or sought from the City, the State, and any out-of-state jurisdiction, including the date the  
13 permit or license was issued or denied, and the name of the permitting or licensing authority;

14                   (18) A signed statement authorizing the Department of the Environment or, where  
15 applicable, the Public Utilities Commission to conduct an energy assessment within the first year of  
16 operation;

17                   (19) A copy of a proposed Good Neighbor Policy, developed in consultation with the  
18 Office of Cannabis, under which the Applicant agrees to:

19                   (A) Provide to residential and commercial neighbors located within 300 feet of  
20 the Cannabis Business the name, phone number, and email address of an onsite manager or community  
21 relations staff person who may be contacted concerning any problems associated with operation of the  
22 establishment;

23                   (B) Maintain the Premises, adjacent sidewalk and/or alley in good condition at  
24 all times; and

1 (C) Prohibit loitering in or around the Premises, and post notifications on the  
2 Premises advising individuals of this prohibition.

3 (20) A staffing plan that includes an organizational chart, demonstrating the roles and  
4 responsibilities of each employee and the reporting structure;

5 (21) A Community Benefits Agreement for consideration by the Director that must, at a  
6 minimum:

7 (A) Commit to the development of a First Source Hiring Plan, as set forth in  
8 Section 1618 of this Article 16; and

9 (B) Describe the Applicant's employment outreach and recruitment strategies.

10 (22) A Security Plan;

11 (23) A statement signed by the Applicant that the Applicant will not Sell or maintain on  
12 the Premises Tobacco Products or alcoholic beverages;

13 (24) Documents demonstrating that the Applicant engaged in a Community Outreach  
14 Strategy to advise neighbors of its intent to apply for a Cannabis Business Permit and to solicit input  
15 on its proposed Good Neighbor Policy. An Applicant's Community Outreach Strategy must, at a  
16 minimum, include written notice to neighbors within 300 feet of the Premises of the Applicant's intent  
17 to open a Cannabis Business at that location, information about how neighbors may provide input on  
18 the content of the Applicant's Good Neighbor Policy, and sign-in sheets and minutes for meetings held  
19 with neighbors. All materials and notices developed and distributed to neighbors by the  
20 Applicant as part of its Community Outreach Strategy must be translated into the languages  
21 required by the Language Access Ordinance, Administrative Code Chapter 91;

22 (25) For Applicants with 10 or more employees, a statement that the Applicant  
23 will enter into, or demonstrate that it has already entered into, and abide by the terms of a  
24 Labor Peace Agreement;

25 (2565) Such further information as the Director requires regarding financial and lease

1 arrangements, management authority, operational control of the Business or its Premises, or other  
2 matters, when such further information will assist the Director in his/her determination whether to  
3 grant or deny the permit; and

4 (2676) A statement signed by the Applicant under penalty of perjury, that the  
5 information provided is complete, true, and accurate.

6 (c) Additional Information Required of Applicants for Cannabis Cultivation Facility permits.

7 In addition to the information required under subsection (b) of this Section 1609, an Applicant for a  
8 Cannabis Cultivation Facility permit shall also submit as part of its application:

9 (1) Copies of all documentation submitted to the State Licensing Authority in support of  
10 its application for a State Cannabis License authorizing the Cultivation and/or Processing of  
11 Cannabis;

12 (2) A statement declaring the Applicant is an "agricultural employer" as defined by the  
13 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975, California Labor Code  
14 Section 1140.4, to the extent not prohibited by law;

15 (3) Information demonstrating the size of the planned Canopy, by square footage of  
16 Cultivation and/or Processing area(s), as applicable;

17 (4) Indication on the diagram of the proposed Premises of the location of any  
18 Hazardous materials and water storage;

19 (5) For Applicants that will engage in the Cultivation of Cannabis, a Cultivation Plan  
20 containing such information as may be required by the Director, including but not limited to:

21 (A) A list of pesticides to be used and quantities of pesticides to be stored on the  
22 Premises;

23 (B) A list of fertilizers to be used and quantities of fertilizers to be stored on the  
24 Premises;

25 (C) A list of any Hazardous materials to be stored on the Premises, and the

1 quantities thereof;

2 (D) A copy of the Applicant's Hazardous materials plan; and

3 (E) A list of propagative materials to be used for Cultivation.

4 (6) For Applicants that will engage in the Cultivation of Cannabis, a Water Plan  
5 containing such information as may be required by the Director, including but not limited to:

6 (A) Identification of the water source and supplier;

7 (B) Where applicable, the point of diversion;

8 (C) A general description of the area in which the water will be used; and

9 (D) A description of all water conservation measures.

10 (7) For Applicants that will engage in the Processing of Cannabis, an Operations Plan  
11 containing such information as may be required by the Director, including but not limited to:

12 (A) Identification of the equipment to be used on the Premises;

13 (B) A list of any Hazardous materials to be stored on the Premises, and the  
14 quantities thereof; and

15 (C) A copy of the Applicant's Hazardous materials plan.

16 (8) A Power Plan containing such information as may be required by the Director,  
17 including but not limited to:

18 (A) The name of the energy generation provider;

19 (B) An indication of the percentage of electricity supplied from California-  
20 eligible renewable and large hydroelectric sources; and

21 (C) A description of all planned energy efficiency measures.

22 (d) Additional Information Required of Applicants for Cannabis Manufacturing Facility  
23 permits. In addition to the information required under subsection (b) of this Section 1609, an  
24 Applicant for a Cannabis Manufacturing Facility permit shall also submit as part of its application:

1                   (1) Copies of all documentation submitted to the State Licensing Authority in support of  
2 its application for a State Cannabis License authorizing the Manufacture of Cannabis;

3                   (2) A Manufacturing Plan, containing such information as may be required by the  
4 Director, including but not limited to:

5                               (A) A detailed description of all processes to be used for the extraction,  
6 packaging, and/or infusion of Cannabis;

7                               (B) A list of any Hazardous materials stored on the Premises, and the quantities  
8 thereof;

9                               (C) A copy of the Applicant's Hazardous materials plan; and

10                              (D) A description of all Cannabis Products that will be Manufactured on the  
11 Premises; and

12                   (3) A statement signed by the Applicant acknowledging that non-Cannabis products will  
13 not be Manufactured on the Premises.

14                   (e) Additional Information Required of Applicants for Cannabis Testing Facility permits. In  
15 addition to the information required under subsection (b) of this Section 1609, an Applicant for a  
16 Cannabis Testing Facility permit shall also submit as part of its application:

17                              (1) Copies of all documentation submitted to the State Licensing Authority in support of  
18 its application for a State Cannabis Testing Laboratory License;

19                              (2) Evidence that the Applicant has obtained or has applied for ISO/IEC 17025  
20 accreditation;

21                              (3) A signed statement attesting that the Applicant has no economic interest in any  
22 Cannabis Businesses other than testing laboratories, such as the one for which the permit is sought;

23                              (4) A Laboratory Operations Plan containing such information as may be required by  
24 the Director, including but not limited to:

25                                      (A) A description of sampling methods to be used; and

1                                    (B) A description of the chain of custody controls to be used.

2                                    (f) Additional Information Required of Applicants for Cannabis Distributor permits. In  
3 addition to the information required under subsection (b) of this Section 1609, an Applicant for a  
4 Cannabis Distributor permit shall also submit as part of its application:

5                                    (1) Copies of all documentation submitted to the State Licensing Authority in support of  
6 its application for a State Distributor License authorizing the Distribution of Cannabis and Cannabis  
7 Products;

8                                    (2) A Distribution Plan containing such information as may be required by the  
9 Director, including but not limited to:

10                                   (A) Information identifying all locations where the Applicant will store  
11 Cannabis or Cannabis Products;

12                                   (B) The Vehicle Information Number for each vehicle that will be used to  
13 Distribute Cannabis and Cannabis Products, and proof of insurance therefor.

14                                   (3) A copy of the Applicant's Cannabis Tax Permit, as may be required by Section  
15 34014 of the California Revenue and Taxation Code, as may be amended from time to time, or if  
16 pending, proof of application therefor.

17                                   (g) Additional Information Required of Applicants for Cannabis Microbusiness permits. In  
18 addition to the information required under subsection (b) of this Section 1609, an Applicant for a  
19 Cannabis Microbusiness permit shall also submit as part of its application:

20                                   (1) Copies of all documentation submitted to the State Licensing Authority in support of  
21 its application for a Cannabis Microbusiness License; and

22                                   (2) All documentation and information set forth in subsections (c), (d), (f), and (h) of  
23 this Section 1609.

24                                   (h) Additional Information Required of Applicants for Storefront Cannabis Retailer permits.  
25 In addition to the information required under subsection (b) of this Section 1609, an Applicant for a

1 Storefront Cannabis Retailer permit shall also submit as part of its application:

2 (1) Copies of all documentation submitted to the State Licensing Authority in support of  
3 its application for a Retailer License.

4 (2) For Applicants that have held a valid Medical Cannabis Dispensary permit,  
5 documentation demonstrating whether the on-site Smoking of Cannabis was prohibited by the Planning  
6 Department or Planning Commission.

7 (3) A Storefront Cannabis Retailer Operations Plan containing such information as  
8 may be required by the Director, including but not limited to:

9 (A) A description of the methods to be used to secure against theft or  
10 misappropriation Cannabis Products that are not on display in the store; and

11 (B) A description of where and when shipments of Cannabis and Cannabis  
12 Products will be received, and the security measures that will be implemented to ensure the safety of  
13 the Retailer's employees, and the public, and to protect against the theft of Cannabis and Cannabis  
14 Products;

15 (4) A description of how the Applicant will support the needs of Customers who qualify  
16 under California Health and Safety Code Sections 11362.7 et seq. to use Medicinal Cannabis,  
17 including but not limited to providing space where Customers may speak confidentially with employees  
18 of the Cannabis Business, and ensuring a sufficient supply of Medicinal Cannabis and Medicinal  
19 Cannabis Products;

20 (5) Indication of whether the Applicant intends to apply for a Cannabis Consumption  
21 permit, as set forth in Article 8A of the Health Code, and a description of the type(s) of Consumption  
22 that the Applicant proposes to allow on the Premises.

23 (6) If the Applicant intends to Deliver Cannabis or Cannabis Products to Customers,  
24 the Applicant shall also provide:

25 (A) Information about the electronic platform, if any, to be used to receive and

1 process orders for Cannabis and/or Cannabis Products;

2 (B) The Vehicle Information Number for each vehicle that will be used to Deliver  
3 Cannabis and Cannabis Products, and proof of insurance coverage therefor;

4 (C) A description of how the Applicant will confirm the age and identity of the  
5 Customer prior to and/or upon Delivery;

6 (D) A description of how the Applicant will confirm that a Customer is qualified  
7 under California Health and Safety Code Sections 11362.7 et seq. to use Medicinal Cannabis, prior to  
8 and/or upon Delivery of Medicinal Cannabis or a Medicinal Cannabis Product.

9 (E) A description of how the Applicant will track drivers and Delivery status.

10 (F) A statement signed by the Applicant affirming that the Applicant:

11 (i) Will provide training to all Delivery employees concerning the laws  
12 governing Sales and Deliveries of Cannabis and Cannabis Products;

13 (ii) Will take steps to ensure the personal safety of all Delivery  
14 employees; and

15 (iii) Understands that the Delivery of Cannabis or Cannabis Products by  
16 anyone other than an employee of the Applicant is a violation of this Article 16.

17 (i) **Additional Information Required of Applicants for Delivery-Only Cannabis Retailer**  
18 **permits. In addition to the information required under subsection (b) of this Section 1609, an**  
19 **Applicant for a Delivery-Only Cannabis Retailer permit shall also submit as part of its application:**

20 (1) Copies of all documentation submitted to the State Licensing Authority in support of  
21 its application for a license authorizing the Delivery and Sale of Cannabis and/or Cannabis Products  
22 to Customers.

23 (2) A description of how the Applicant will support the needs of Customers who qualify  
24 under California Health and Safety Code Sections 11362.7 et seq. to use Medicinal Cannabis,  
25 including but not limited to ensuring a sufficient supply of Medicinal Cannabis and Medicinal

1 Cannabis Products.

2 (3) A "Delivery-Only Cannabis Retailer Operations Plan" containing such information  
3 as may be required by the Director, including but not limited to:

4 (A) Where applicable, a description of the protocols it intends to implement to  
5 separately store, sell, and tax Medicinal and Adult Use Cannabis and Cannabis Products;

6 (B) A description of where and when shipments of Cannabis and Cannabis  
7 Products will be received, and the security measures that will be implemented to ensure the safety of  
8 the Business' employees, and the public, and to protect against the theft of Cannabis and Cannabis  
9 Products;

10 (C) Information about the electronic platform, if any, to be used to receive and  
11 process orders for Cannabis and/or Cannabis Products;

12 (D) The Vehicle Information Number for each vehicle that will be used to Deliver  
13 Cannabis and Cannabis Products, and proof of insurance coverage therefor;

14 (E) A description of how the Applicant will confirm the age and identity of the  
15 Customer prior to and/or upon Delivery;

16 (F) A description of how the Applicant will confirm that a Customer is qualified  
17 under California Health and Safety Code Sections 11362.7 et seq. to use Medicinal Cannabis, prior to  
18 and/or upon Delivery of Medicinal Cannabis or a Medicinal Cannabis Product;

19 (G) A description of how the Applicant will track Delivery employees and  
20 Delivery status; and

21 (H) A statement signed by the Applicant affirming that the Applicant:

22 (i) Will provide training to all Delivery employees concerning the laws  
23 governing Sales and Deliveries of Cannabis and Cannabis products;

24 (ii) Will take steps to ensure the personal safety of all Delivery  
25 employees; and

1 (iii) Understands that the Delivery of Cannabis or Cannabis Products by  
2 anyone other than an employee of the Applicant is a violation of this Article 16.

3 (i) Upon receipt of an application for a Medicinal Cannabis Retailer, Cannabis Retailer,  
4 or Delivery-Only Cannabis Retailer permit, the Office of Cannabis shall post the name and  
5 location of the proposed Cannabis Business on its website, and shall update its website with  
6 information about the status of the application until such time as the application has been  
7 approved or denied. The Office of Cannabis shall also cause a notice to be posted on the site  
8 of the Premises associated with the aforementioned permit applications to notify neighbors  
9 that a Cannabis Business Permit is sought at that location.

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

12 An Applicant may withdraw an application at any time prior to the Office's issuance or denial  
13 of a Cannabis Business Permit. Requests to withdraw an application shall be submitted to the Office in  
14 writing, dated, and signed by the Person who submitted and signed the application. The Office shall not  
15 refund application fees for a withdrawn application. An Applicant that has withdrawn an application  
16 may reapply and pay a new application fee at any time following the withdrawal of an application, but  
17 such application shall not receive priority review as set forth in subsections (c)(1), (2), and (3) of  
18 Section 1606.

19  
20 **SEC. 1611. PERMITTEE'S RESPONSIBILITY FOR ACTS OF EMPLOYEES AND**  
21 **AGENTS.**

22 In construing and enforcing the provisions of this Article 16 and regulations promulgated  
23 thereto, any act, omission, or failure of an agent, officer, or other Person acting for or employed by a  
24 Cannabis Business, within the scope of his or her employment or agency, shall be deemed the act,  
25 omission, or failure of the Cannabis Business.

1  
2 **SEC. 1612. INCORPORATION OF REQUIREMENTS OF LOCAL APPROVALS.**

3 (a) A violation of the terms and conditions of a Cannabis Business Permit shall be treated as a  
4 violation of this Article 16.

5 (b) A violation of the terms and conditions imposed on a Cannabis Business by a Referring  
6 Department shall be treated as a violation of this Article 16.

7  
8 **SEC. 1613. LIMITS ON PERMITS.**

9 (a) A Permittee that holds a Cannabis Testing Facility permit shall be ineligible for and may  
10 not be issued a permit to operate any other type of Commercial Cannabis Activity permitted by the  
11 City. A Permittee that holds a Cannabis Business Permit other than a Cannabis Testing Facility  
12 permit, shall be ineligible for and may not be issued a permit to operate a Cannabis Testing Facility.

13 (b) Except as stated in the first sentence of subsection (a) of this Section 1613, a Person may  
14 hold more than one Cannabis Business Permit.

15 (c) The Controller shall track the number of permits that are awarded pursuant to this  
16 Article 16. Within one year of the effective date of this Article 16, the Controller shall submit to  
17 the Board of Supervisors a report that makes recommendations as to whether the issuance of  
18 Cannabis Business Permits should be subject to any numerical, geographical, or other limits.

19  
20 **SEC. 1614. REFERRAL OF APPLICATION TO DEPARTMENTS AND AGENCIES.**

21 The Director shall send the application to all appropriate Referring Departments. Those  
22 departments shall complete all necessary review and inspections and report their determinations to the  
23 Office of Cannabis.

24  
25 **SEC. 1615. ISSUANCE AND DENIAL OF CANNABIS BUSINESS PERMITS.**

1           (a) After reviewing an Applicant's application, the Director shall notify the Applicant in  
2 writing that the application is complete and accepted for further review, or incomplete. If the Director  
3 deems the application to be incomplete, the Applicant shall supply the information or documentation  
4 that is required for the application to be deemed complete. The Applicant shall have 90 days from the  
5 date that the Director provides notification that the application is incomplete to provide all required  
6 information and/or documentation. If the Applicant does not provide such information within 90 days,  
7 the application will be deemed abandoned and will not receive further consideration. Applicants that  
8 abandon an application may submit a new one, subject to payment of a new application fee.  
9 Applicants that submit an Application following the abandonment of an earlier Application shall not  
10 receive priority review, as set forth in subsections (e)(1), (2), and (3) of Section 1606.

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

14           (c) Approvals. In granting a permit, the Director may impose conditions as are, in his or her  
15 judgment, necessary to protect the health and safety of the Permittee's employees, neighbors, and  
16 Customers, prevent access to Cannabis and Cannabis Products by underage persons, and reduce any  
17 potential adverse impacts of the Cannabis Business on the immediate neighborhood. Such conditions  
18 may include, but are not limited to, conditions relating to the hours of operation.

19           (d) Mandatory Grounds for Denial. No Cannabis Business Permit shall be issued if the  
20 Director finds that:

21                   (1) The Applicant provided materially false information or documents in support of the  
22 application.

23                   (2) The Applicant failed to provide all information required by this Article 16 and by  
24 the Director, in implementing this Article 16.

25                   (3) The Applicant has not fully complied with the provisions of this Article 16.

1                   (4) The Applicant has not demonstrated eligibility for a permit under this Article 16.

2                   (5) The Premises are materially different from the diagram of the Premises submitted  
3 by the Applicant.

4                   (6) The City has revoked a permit for the operation of a business in the City which  
5 permit had been issued to the Applicant or to any other Person who will be engaged in the management  
6 of the Cannabis Business unless more than five years have passed between the date of the application  
7 and the date of revocation of the other permit.

8                   (7) The operation of the Cannabis Business as proposed by the Applicant, if permitted,  
9 would not comply with all applicable laws, including but not limited to, the Building, Planning,  
10 Housing, Police, Fire, and Health Codes of the City, the provisions of this Article 16 and any  
11 regulations promulgated thereto, and the Medicinal and Adult Use Cannabis Regulation and Safety  
12 Act, 2017 Cal. Legis. Serv. Ch. 27 (S.B. 94), and its implementing regulations, as may be amended from  
13 time to time.

14                   (8) The Applicant is employed by any local or state agency responsible for the  
15 regulation of Commercial Cannabis Activities.

16                   (9) The Applicant denied access to the Premises to the Office and/or to any Referring  
17 Department.

18                   (10) The Director finds that the Premises or the Cannabis Business will be or is being  
19 managed, conducted, or maintained in such a manner as to endanger the health and safety of the  
20 employees, Customers or neighbors, or to coerce any employee to engage in illegal conduct.

21                   (11) The Planning Department or Planning Commission determines that the  
22 Applicant engaged in Commercial Cannabis Activities in a location that was not authorized by  
23 or consistent with the Planning Code.

24                   (e) Discretionary Grounds for Denial. The Director may deny an application for a Cannabis  
25 Business Permit if the Director finds that:

1                   (1) The Applicant or Owner has been convicted of an offense that is substantially  
2 related to the qualifications, functions, or duties of the business or profession for which the application  
3 is made, except that if the Director determines that the Applicant or Owner is otherwise suitable to be  
4 issued a permit, and granting the permit would not compromise public safety, the Director shall  
5 conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of  
6 rehabilitation of the Applicant or Owner, and shall evaluate the suitability of the Applicant or Owner,  
7 to be issued a permit based on the evidence found through the review. For purposes of this subsection  
8 (e)(1), "offenses that are substantially related to the qualifications, functions, or duties of the business  
9 or profession for which the application is made" include, but are not limited to, the following:

10                   (A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of  
11 the California Penal Code;

12                   (B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7  
13 of the California Penal Code;

14                   (C) A felony conviction involving fraud, deceit, or embezzlement;

15                   (D) A felony conviction for hiring, employing, or using a minor in transporting,  
16 carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or  
17 selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled  
18 substance to a minor; and,

19                   (E) A felony conviction for drug trafficking with enhancements pursuant to  
20 Section 11370.4 or 11379.8 of the California Health and Safety Code.

21                   (2) Except as provided in subsections (e)(1)(D)-(E) of this Section 1615, a prior  
22 conviction, where the sentence, including any term of probation, incarceration, or supervised release,  
23 is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of  
24 a controlled substance is not considered substantially related, and shall not be the sole ground for  
25 denial of a permit.

1                   (3) The Director concludes that there is good cause to deny the permit in accordance  
2 with Section 26 of the Business and Tax Regulations Code.

3                   (f) In determining whether an Application should be denied on grounds articulated in  
4 subsections (d)(1) and (2) of this Section 1615, the Director shall use his or her best efforts to  
5 coordinate his or her review of evidence and decision with the State Licensing Authority charged with  
6 the review of the Applicant's application for a State Cannabis License.

7  
8                   **SEC. 1616. PAYMENT OF ANNUAL LICENSE FEE.**

9                   The license fee for a Cannabis Business Permit shall be paid annually on or before March 31,  
10 in accordance with the provisions of Section 76.1 of the Business and Tax Regulations Code. Upon the  
11 failure of the Permittee to pay such fees, the permit shall be considered null and void, and therefore  
12 inactive as a matter of law, until the Permittee pays the fees and any penalties that might be assessed  
13 by the Director.

14  
15                   **SEC. 1617. COMPLIANCE WITH PERMIT CONDITIONS.**

16                   (a) No Permittee shall operate a Cannabis Business in a manner inconsistent with any permit  
17 condition imposed by the Director or by a Referring Department.

18                   (b) A Permittee may request a permit amendment to remove or change a condition imposed by  
19 the Director by filing a request with the Office of Cannabis and paying such permit amendment  
20 application fee as may be required.

21                   (c) The Director shall consider whether the amendment of the permit condition sought by the  
22 Permittee would jeopardize the health and safety of the Permittee's employees, neighbors, or  
23 Customers, increase access to Cannabis and Cannabis Products by underage persons, or increase any  
24 potential adverse impacts of the Cannabis Business on the immediate neighborhood, and shall render a  
25 decision to remove, change, or maintain the permit condition(s) on the basis of that evaluation or for

1 any good cause.

2 (d) A decision of the Director to impose a permit condition, or to refuse to remove or amend a  
3 permit condition, may be appealed to the Board of Appeals in the manner prescribed in Article 1 of the  
4 Business and Tax Regulations Code.

5  
6 **SEC. 1618. ELIGIBILITY AND OPERATING STANDARDS APPLICABLE TO ALL**  
7 **CANNABIS BUSINESSES.**

8 (a) Every Cannabis Business is required to obtain a business license from the City in  
9 compliance with Article 2 of the Business and Tax Regulations Code.

10 (b) Every Cannabis Business is required to obtain a business registration certificate  
11 from the City in compliance with Article 12 of the Business and Tax Regulations Code. Every  
12 Cannabis Business is required to have paid all outstanding taxes and fees, including any  
13 related penalties and interest, owed to the City, and is required to have obtained a business  
14 registration certificate from the City in compliance with Article 12 of the Business and Tax  
15 Regulations Code.

16 (c) Every Cannabis Business is required to obtain a State Cannabis License prior to engaging  
17 in any Commercial Cannabis Activities.

18 (d) Every Cannabis Business is required to prominently display on its Premises its Cannabis  
19 Business Permit, State Cannabis License, Business Registration, and Seller's Permit, if required to hold  
20 a Seller's Permit.

21 (e) Every Cannabis Business shall operate within fully enclosed and secure structures that are  
22 inaccessible to underage persons.

23 (f) It shall be a violation of this Article 16 for a Cannabis Business to sell or maintain alcoholic  
24 beverages and/or Tobacco Products on the Premises of the Cannabis Business.

1           (g) Every Cannabis Business shall enter into a First Source Hiring Agreement, as defined by  
2 Section 83.4 of the Administrative Code, pursuant to which it agrees to comply with the first source  
3 hiring requirements set forth in subsections (b)(1)-(8) of Section 83.9 of the Administrative Code.

4           (h) Every Cannabis Business is required to submit a "modification request" to the Office of  
5 Cannabis prior to making any change that would materially or substantially alter the Premises from  
6 the diagram of the Premises on file with the Office of Cannabis, and shall not make the proposed  
7 change absent approval from the Director.

8           (i) Every Cannabis Business is required to use the business name listed on its Cannabis  
9 Business Permit when applying for any other permits or licenses relating to the operation of the  
10 Cannabis Business, and when applying for a State Cannabis license.

11           (j) Every Cannabis Business is required to provide identification badges to all employees that  
12 display: (1) the name of the Cannabis Business; (2) the number of the Cannabis Business' Cannabis  
13 Business Permit; and (3) a photo of the employee's face. Such identification badges must be worn by  
14 employees at all times when they are on the Premises of the Cannabis Business, and when acting in the  
15 scope of their employment.

16           (k) Every Cannabis Business is required to maintain on the Premises a fire proof safe.

17           (l) A Cannabis Business shall not enter into a sublease for use of any part of the Premises by  
18 another entity without the prior approval of the Director.

19           (m) A Physician's Recommendation for Medicinal Cannabis may not be sought, issued,  
20 provided, or procured on the Premises of a Cannabis Business.

21           (n) At any time a Cannabis Business is open for operation, there shall be at least one person on  
22 the Premises who is responsible for the operation of the Cannabis Business and who is readily  
23 available to respond to and interact with all inspecting departments and agencies, the Director, or any  
24 other City employee or official.

1           (o) No Cannabis Business that is an A-licensee may employ an individual who is not at least  
2 21 years of age. No Cannabis Business that is an M-licensee may employ an individual who is  
3 not at least 18 years of age. Where a Cannabis Business is both an A-licensee and an M-  
4 licensee, it may not employ an individual who is not at least 21 years of age.

5           (p) Every Cannabis Business is required to comply with all aspects of the state's "Track and  
6 Trace" program, as set forth in Section 26067 of the California Business and Professions Code, as may  
7 be amended from time to time.

8           (q) Every Cannabis Business is required to maintain records demonstrating that all Cannabis  
9 and Cannabis Products have been obtained from Cannabis Businesses holding a valid State Cannabis  
10 License. The Director shall have the right to examine, monitor and audit such records and  
11 documentation, which shall be made available immediately upon request of the Office of Cannabis.

12           (r) None of the following items shall be allowed on the Premises or parking lot of a permitted  
13 Cannabis Business:

14           (1) Controlled substances other than Cannabis, except when in the possession or under  
15 the control of an individual for whom the controlled substance was prescribed by a licensed physician;  
16 and

17           (2) Alcoholic beverages.

18           (s) Every Cannabis Business shall comply with the terms of its Good Neighbor Policy and  
19 Security Plan.

20           (t) Every Cannabis Business is required to keep all garbage, recycling, and compost containers  
21 on the Premises and hidden from public view, and placed outside only when being serviced by the  
22 disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling  
23 receptacle guidelines set forth by the Department of Public Works.

24           (u) The Premises of every Cannabis Business shall be adequately soundproofed or insulated for  
25 noise, as may be required by the Planning and/or Building Codes, or by permits issued pursuant to

1 those Codes. Noise generated by fixed-source equipment shall not exceed the decibel levels specified in  
2 Article 29 of the Police Code, as may be amended from time to time. Violations of this subsection (u),  
3 including noise that exceeds the decibel levels specified in Article 29 of the Police Code, are subject to  
4 the penalties set forth in this Article 16.

5 (v) Appropriate odor control equipment shall be installed in conformance with the approved  
6 odor plan and maintained to prevent any significant noxious or offensive odors from escaping the  
7 Premises.

8 (w) Every Cannabis Business shall maintain the main entrance to the Premises and all  
9 sidewalks abutting the subject property in a clean and sanitary condition in compliance with the  
10 Department of Public Works' Street and Sidewalk Maintenance Standards.

11 (x) Every Cannabis Business shall comply with signage controls as established in accordance  
12 with the Planning Code.

13 (y) Every Cannabis Business shall register with the Office each location within the City where  
14 Cannabis and Cannabis Products will be stored.

15 (z) Every Cannabis Business shall protect personally identifiable information and protected  
16 health information from unauthorized disclosure, to the extent required by the Health Insurance  
17 Portability and Accountability Act, the California Medical Information Act, Article 1 of the California  
18 Constitution, the California Health and Safety Code and regulations promulgated thereunder, and any  
19 other applicable provision of federal or state law.

20 (aa) It shall be a violation of this Article 16 for any Cannabis Business to engage in the nonsale  
21 distribution of Cannabis or Cannabis Products, or to permit the nonsale distribution of Cannabis or  
22 Cannabis Products by any Person on the Premises of the Cannabis Business, except as authorized by  
23 state law. For purposes of this subsection (aa), "nonsale distribution" means to give Cannabis or  
24 Cannabis Products to the general public or some segment thereof at no cost, or at nominal cost, or to  
25

1 give coupons, coupon offers, or rebate offers for Cannabis or Cannabis Products to the general public  
2 or some segment thereof at no cost or at nominal cost.

3 (bb) A Cannabis Business shall conduct an Energy Efficiency Audit Reporting, as may be  
4 required by Chapter 20 of the Environment Code.

5 (cc) Every Cannabis Business shall ensure that the electrical power used for Commercial  
6 Cannabis Activities shall be procured from or produced by renewable sources, consistent with  
7 Renewable Energy Requirements to be adopted by the Director, in consultation with the Director of the  
8 Department of the Environment. In adopting Renewable Energy Requirements, the Director shall  
9 establish minimum renewable energy requirements that are consistent with the amount of renewable  
10 energy contained in CleanPowerSF's Green Service. A Cannabis Businesses shall also provide to the  
11 Director and the Department of the Environment an annual report documenting the amount and source  
12 of energy consumed by the Business in the prior 12 months.

13 (dd) Every Cannabis Business shall advise the Director and the applicable State Licensing  
14 Authority in writing of the following events within 48 hours of:

15 (1) Receiving a criminal penalty or civil judgment rendered against the Permittee; or

16 (2) Receiving notification of the revocation of a local license, permit or other  
17 authorization from any Referring Department.

18 (ee) Every Cannabis Business shall notify the Director, the Police Department, and the  
19 applicable State Licensing Authority within 24 hours after discovering any of the following:

20 (1) Significant discrepancies identified during inventory;

21 (2) Diversion, theft, loss, or any criminal activity pertaining to the operation of the  
22 Cannabis Business;

23 (3) The loss or unauthorized alteration of records related to Cannabis or Cannabis  
24 Products, registered qualifying patients, primary caregivers, or the employees or agents of the  
25 Cannabis Business; and

1                    (4) Any other breach of security.

2                    (ff) Every Cannabis Business shall ensure that at least 50% of all Business Work  
3 Hours are performed by Local Residents. Business Work Hours performed by residents of  
4 states other than California shall not be considered in calculation of the number of Business  
5 Work Hours to which this requirement applies. The Director of the Office of Cannabis may  
6 approve a time-limited waiver or reduction of this requirement, upon a showing by the  
7 Cannabis Business that it was unable to locate a sufficient number of qualified Local  
8 Residents.

9  
10                    **SEC. 1619. PROHIBITION ON ENTRY BY AND SALES TO UNDERAGE PERSONS.**

11                    (a) Entry to Premises Prohibited. It shall be a violation of this Article 16 for a Permittee to  
12 allow on the Premises any person under 21 years of age, provided however that a Medicinal Cannabis  
13 Retailer may allow entry to a person 18 years of age or older who possesses a valid Physician's  
14 Recommendation.

15                    **(b) Prohibited Sales.**

16                    (1) It shall be a violation of this Article 16 for any Storefront Cannabis Retailer,  
17 Cannabis Microbusiness, or Delivery-Only Cannabis Retailer to Sell, furnish, give, or cause to be Sold,  
18 any Adult Use Cannabis or Adult Use Cannabis Products to any person under the age of 21.

19                    (2) It shall be a violation of this Article 16 for any Storefront Cannabis Retailer,  
20 Cannabis Microbusiness, or Delivery-Only Cannabis Retailer to Sell, furnish, give, or cause to be Sold,  
21 any Medicinal Cannabis or Medicinal Cannabis Products to any person who is under the age of 18  
22 and/or who does not possess a valid Physician's Recommendation.

23                    (c) Positive Bona Fide Proof of Identity Required. No Storefront Cannabis Retailer,  
24 Cannabis Microbusiness, or Delivery-Only Cannabis Retailer may Sell Cannabis or Cannabis  
25 Products to any Customer without first examining the Customer's Bona Fide Proof of Age and Identity

1 to confirm that the Customer is at least the minimum age under state law to purchase and possess the  
2 Cannabis or Cannabis Product. Review of a Customer's Bona Fide Proof of Age must be performed by  
3 an employee of the Permittee, in the presence of the prospective Customer.

4 (d) Proof of Physician's Recommendation Required. No Storefront Cannabis Retailer,  
5 Cannabis Microbusiness, or Delivery-Only Cannabis Retailer may Sell Medicinal Cannabis or  
6 Medicinal Cannabis Products to any Customer without first examining verification that the Customer  
7 possesses a valid Physician's Recommendation. Review of a Customer's verification of Physician's  
8 Recommendation must be performed by an employee of the Permittee, in the presence of the  
9 prospective Customer.

10  
11 **SEC. 1620. CONSUMPTION AND SMOKING OF CANNABIS AND CANNABIS**  
12 **PRODUCTS ON THE PREMISES OF CANNABIS BUSINESSES.**

13 (a) The Consumption and Smoking of Cannabis and Cannabis Products are prohibited on  
14 the Premises of all Cannabis Manufacturing Facilities, Cannabis Cultivation Facilities, Cannabis  
15 Testing Facilities, Cannabis Distributors, and Delivery-Only Cannabis Retailers.

16 (b) The Consumption of Cannabis Products is not prohibited on the Premises of Medicinal  
17 Cannabis Retailers, Cannabis Retailers, and Cannabis Microbusiness, provided, however, that all of  
18 the following conditions are present:

19 (1) The Cannabis Business has received and maintained a valid Cannabis Consumption  
20 Permit from the Department of Public Health, as set forth in Article 8A of the Health Code, authorizing  
21 onsite Consumption of Cannabis Products;

22 (2) Access to the area where the Consumption of Cannabis Products is allowed is  
23 restricted to persons 21 years of age and older, or persons 18 years of age and older, if the Permitted  
24 Businesses is authorized to Sell Medicinal Cannabis and Medicinal Cannabis Products;

1 (3) Cannabis Consumption is not visible from any public place or nonage-restricted  
2 area; and

3 (4) Sale and Consumption of alcohol or Tobacco Products are not allowed on the  
4 Premises.

5 ~~(c) The Smoking of Cannabis and Cannabis Products is prohibited on the Premises of~~  
6 ~~Medicinal Cannabis Retailers, Cannabis Retailers, and Cannabis Microbusinesses, absent~~  
7 ~~authorization from the Director of the Department of Public Health, as set forth in Section~~  
8 ~~4009.23 of the Health Code. Where authorized by the Director of Health, the Smoking of~~  
9 ~~Cannabis and Cannabis Products shall be subject to the limitations on Consumption set forth~~  
10 ~~in subsection (b)(2) (4) of this Section 1620.~~

11 (ec) All Cannabis Businesses shall:

12 (1) Post clear and prominent signs at each entrance to the Premises advising  
13 Customers that the Smoking of Cannabis is prohibited in public places, including on sidewalks and in  
14 the entryways of businesses;

15 (2) Post clear and prominent "No Smoking" signs in any area of the Premises where  
16 Smoking is prohibited;

17 (3) Post clear and prominent "No Consuming Cannabis" signs in any area of the  
18 Premises where the Consumption of Cannabis and Cannabis Products is prohibited; and

19 (4) Request that any person Smoking or Consuming Cannabis or Cannabis Products  
20 where Smoking or Consumption are prohibited refrain from Smoking and/or Consuming.

21  
22 **SEC. 1621. TOURS.**

23 (a) It shall be a violation of this Article 16 for Cannabis Testing Facilities, Cannabis  
24 Distributors, and Delivery-Only Cannabis Retailers to permit a tour to be conducted on the Premises.

25 (b) Prior to January 1, 2019, it shall be a violation of this Article 16 for a Cannabis

1 Manufacturing Facility, a Cannabis Cultivation Facility, or a Cannabis Microbusiness to permit a tour  
2 to be conducted on the Premises.

3 (c) For purposes of this Section 1621, a "tour" means an organized or prearranged visit by a  
4 member or members of the general public, or segment thereof, whether free or for charge, who wish to  
5 view the Premises, learn about its methods of operation, and/or gain insight into the Cannabis industry.

6 A "tour" does not include visits by:

7 (1) Employees of the Cannabis Business;

8 (2) Employees of other Cannabis Businesses licensed by the State of California with  
9 which the Permittee is conducting business;

10 (3) Persons authorized to conduct inspections;

11 (4) Persons engaging in law enforcement activities;

12 (5) Persons providing incidental business services, such as repairs or, deliveries; or

13 (6) Persons affiliated with a government agency who have received approval from the  
14 Cannabis Business and the Office of Cannabis to conduct a tour of the Cannabis Business.

15 (d) Prior to January 1, 2019, the Director shall adopt rules and regulations governing tours of  
16 Cannabis Businesses. The Director is authorized to extend the prohibition on tours set forth in  
17 subsection (b) of this Section 1621, or authorize tours, subject to limitations he or she may adopt to  
18 protect the health and safety of employees, neighbors and Customers, prohibit access to Cannabis and  
19 Cannabis Products by underage persons, preserve the character of the surrounding neighborhood, and  
20 mitigate any potential noise and/or traffic congestion.

21  
22 **SEC. 1622. DELIVERIES OF CANNABIS AND CANNABIS PRODUCTS TO**  
23 **CUSTOMERS.**

24 (a) The Delivery of Cannabis or Cannabis Products to Customers within San Francisco is  
25 prohibited except by Storefront Cannabis Retailers and Delivery-Only Cannabis Retailers that are

1 permitted by the Office of Cannabis and receive express authorization to engage in Deliveries from the  
2 Director. The Delivery of Cannabis or Cannabis Products within San Francisco by Cannabis  
3 Businesses that are located outside of San Francisco is prohibited.

4 (b) Permitted Cannabis Businesses that receive authorization from the Director to engage in  
5 Deliveries must comply with such Delivery Standards as may be adopted by the Director, including but  
6 not limited to the following:

7 (1) Deliveries may only be conducted by employees of the Permitted Cannabis Business.  
8 Deliveries may not be conducted by independent contractors.

9 (2) An employee conducting a Delivery must deliver the Cannabis or Cannabis Product  
10 to an address associated with real property (e.g. not to a street corner or location within a park).

11 (3) Orders must be completed by individuals aged 21 or over (with valid California  
12 driver's license or Identification card).

13 (4) Deliveries must be made during the Cannabis Business' hours of operation.

14 (5) Delivery may only be made to the individual who placed the Bona Fide Order, and  
15 to individuals who are 21 years of age or older, unless the Customer provides verification that the  
16 Customer, or a patient for whom he or she is a Primary Caregiver, qualifies under California Health  
17 and Safety Code Section 11362.7 et seq. to use Medicinal Cannabis.

18 (6) Upon Delivery, the employee performing the Delivery must:

19 (A) Personally review the Bona Fide Proof of Age and Identity of the Customer  
20 to confirm that he or she is the same individual who submitted the Bona Fide Order, and is not  
21 underage, as set forth in Section 1619 of this Article 16;

22 (B) Where the product being sold is Medicinal Cannabis or a Medicinal  
23 Cannabis Product, personally review documentation verifying that the Customer possesses a valid  
24 Physician's Recommendation;

25 (C) Require the Customer to sign a document indicating the type and quantity of

1 Cannabis and/or Cannabis Products that were Delivered; and

2 (D) Distribute to each Customer at the time of sale a fact sheet relating to safe  
3 Consumption of Cannabis and Cannabis Products, the content of which shall be produced by the  
4 Department of Public Health.

5 (7) A Cannabis Business may not Deliver more than 28.5 grams of non-concentrated  
6 Cannabis or eight grams of concentrated Cannabis Products to the same real property (e.g. apartment  
7 unit or house) in the same business day.

8 (8) Cannabis and Cannabis Products that are Delivered to a Customer must:

9 (A) Comply with the all State and local packaging and labeling rules; and,

10 (B) Be placed in an opaque child resistant Delivery receptacle.

11 (9) All Cannabis and Cannabis Products shall be kept in a lock-box securely affixed  
12 inside the Delivery vehicle.

13 (10) A manifest must be created for each Delivery or series of Deliveries prior to  
14 departure, and the Delivery employee may not make any unnecessary stops between Deliveries or  
15 deviate substantially from the manifest route, unless a stop is necessary for personal safety.

16 (11) A Cannabis Business authorized to engage in the Delivery of Cannabis and/or  
17 Cannabis Products shall comply with all track and trace requirements imposed by state law, and shall  
18 document the following information regarding Deliveries pursuant to track and trace:

19 (A) The date and time the Bona Fide Order was received by the Cannabis  
20 Business;

21 (B) The date and time the Cannabis and/or Cannabis Products were Delivered;

22 (C) A description of the Cannabis and/or Cannabis Products that were  
23 Delivered, including the weight or volume and price paid by the Customer;

24 (D) The name of the Delivery employee who performed the Delivery; and

25 (E) The name of the individual to whom the Delivery was made, and the

1 Delivery address.

2 (12) A Cannabis Business authorized to engage in Deliveries must Deliver Cannabis  
3 and Cannabis Products by Vehicle only. Delivery of Cannabis and Cannabis Products by motorcycles,  
4 scooters, drones, human powered vehicles, and unmanned vehicles is prohibited.

5  
6 **SEC. 1623. CANNABIS CULTIVATION FACILITIES.**

7 (a) Authorized activities. A Cannabis Cultivation Facility Permit authorizes the Permittee to  
8 engage in the Commercial Cultivation and Processing of Medicinal Cannabis and Adult Use Cannabis,  
9 provided that the Permittee is both an A-licensee and an M-licensee. A Cannabis Cultivation Facility  
10 Permittee that holds only an A-license may engage in the Commercial Cultivation and Processing of  
11 Adult Use Cannabis only. A Cannabis Cultivation Facility Permittee that holds only an M-License may  
12 engage in the Cultivation and Processing of Medicinal Cannabis only.

13 (b) Operating Standards. In addition to the operating requirements set forth in Section 1618 of  
14 this Article 16, a Cannabis Cultivation Facility shall comply with the following Cultivation operating  
15 standards:

16 (1) The Premises to be used as a Cannabis Cultivation Facility may not exceed 22,000  
17 square feet of total Canopy. Canopy shall be calculated on a square foot basis and shall include any  
18 vertical growth space, such as shelving.

19 (2) A Cannabis Cultivation Facility may engage in the indoor Cultivation of Cannabis  
20 only; the outdoor Cultivation of Cannabis is prohibited. For purposes of this Article 16, "indoor  
21 Cultivation" and "outdoor Cultivation" shall have the meaning set forth in regulations promulgated by  
22 the California Department of Food and Agriculture pursuant to the Medicinal and Adult Use Cannabis  
23 Regulation and Safety Act.

24 (3) All Cultivation activities must not be visible from the public right-of-way.

1                   (4) A Cannabis Cultivation Facility must have weighing and measuring devices used in  
2 connection with the Sale or Distribution of Cannabis that meet state standards.

3  
4                   **SEC. 1624. CANNABIS MANUFACTURING FACILITIES.**

5                   (a) Authorized activities. A Cannabis Manufacturing Facility Permit authorizes the Permittee  
6 to engage in the Commercial Manufacture of Medicinal Cannabis Products and Adult Use Cannabis  
7 Products, provided that the Permittee is both an A-licensee and an M-licensee. A Cannabis  
8 Manufacturing Facility Permittee that holds only an A-license may engage in the Commercial  
9 Manufacture of Adult Use Cannabis Products only. A Cannabis Manufacturing Facility Permittee that  
10 holds only an M-License may engage in the Manufacturing of Medicinal Cannabis Products only.

11                   (b) Operating Standards. In addition to the operating requirements set forth in Section 1618 of  
12 this Article 16, a Cannabis Manufacturing Facility shall comply with the following Manufacturing  
13 operating standards:

14                   (1) A Cannabis Manufacturing Facility may Manufacture Cannabis Products only; it  
15 may not Manufacture products that do not contain Cannabis.

16                   (2) A Cannabis Manufacturing Facility may engage in Cannabis oil extraction, subject  
17 to any limitations imposed by the Planning Code, the Planning Department or the Planning  
18 Commission.

19                   (3) A Cannabis Manufacturing Facility may not produce or Sell Edible Cannabis  
20 Products that do not comply with the requirements of Sections 26130 and 26131 of the California  
21 Health and Safety Code, as may be amended from time to time, and any regulations promulgated  
22 thereto.

23                   (4) A Cannabis Manufacturing Facility may use Volatile Solvents only if the operator  
24 holds a State Cannabis License authorizing their use.

25                   (5) A Cannabis Manufacturing Facility using Volatile Solvents for Manufacturing

1 Cannabis Products must operate in a manner to reduce the risk of explosion or danger to public health,  
2 including through the use of a close-loop or solvent dispersion system consistent with the requirements  
3 of California Health and Safety Code Section 11362.775, as may be amended from time to time.

4  
5 **SEC. 1625. CANNABIS TESTING FACILITIES.**

6 (a) Authorized activities. A Cannabis Testing Facility Permit authorizes the Permittee to  
7 engage in the Commercial testing of Medicinal Cannabis and Cannabis Products and Adult Use  
8 Cannabis and Cannabis Products.

9 (b) Operating Standards. In addition to the operating requirements set forth in Section 1618 of  
10 this Article 16, a Cannabis Testing Facility shall:

11 (1) Notify the Department of Public Health and Office of Cannabis of any tests  
12 performed on Cannabis or Cannabis Products Cultivated or Manufactured by a Cannabis Business  
13 located in San Francisco where the Cannabis batch fails the testing requirements established by state  
14 regulation within five business days of conducting such test. Such notification shall include the name,  
15 State license number and local Permit number of the Manufacturer that provided the Cannabis to be  
16 tested, and information related to the test results, reason for failure, and any applicable track and trace  
17 information;

18 (2) Notify the Office of Cannabis within 24 hours of conducting a test if a sample that  
19 was Cultivated, Manufactured, or supplied by a Cannabis Business located in San Francisco is found  
20 to contain levels of a contaminant not allowable by the State that could be injurious to human health if  
21 Consumed. The Office of Cannabis shall provide this information to appropriate City and state  
22 departments, including but not limited to the Department of Public Health;

23 (3) Notify the Office of Cannabis within one business day after receipt of notice that  
24 accreditation as a Cannabis Laboratory has been denied, suspended or revoked; and

25 (4) Employ at least one full-time employee responsible for quality control.

1  
2           **SEC. 1626. CANNABIS DISTRIBUTORS.**

3           **(a) Authorized activities.** *A Cannabis Distributor Permit authorizes the Permittee to engage in*  
4 *the Commercial Distribution of Medicinal Cannabis and Adult Use Cannabis, provided that the*  
5 *Permittee is both an A-licensee and an M-licensee. A Cannabis Distributor that holds only an A-*  
6 *license may engage in the Commercial Distribution of Adult Use Cannabis and Cannabis Products*  
7 *only. A Cannabis Distributor that holds only an M-License may engage in the Commercial*  
8 *Distribution of Medicinal Cannabis and Cannabis Products only.*

9           **(b) Operating Standards.** *In addition to the operating requirements set forth in Section 1618 of*  
10 *this Article 16, a Cannabis Distributor shall comply with the following operating standards:*

11                   **(1)** *A Cannabis Distributor shall inspect all Cannabis and Cannabis Products received*  
12 *by it for quality assurance prior to Distribution.*

13                   **(2)** *A Cannabis Distributor shall Distribute Cannabis and Cannabis Products by*  
14 *Commercial Vehicle only. Distribution by non-Commercial Vehicles, drones, human powered vehicles,*  
15 *and unmanned vehicles is prohibited.*

16  
17           **SEC. 1627. CANNABIS MICROBUSINESSES.**

18           **(a) Authorized activities.** *A Cannabis Microbusiness Permit authorizes the Permittee to*  
19 *engage in the Commercial Cultivation, Manufacture, Distribution, and Sale of Medicinal Cannabis and*  
20 *Cannabis Products and Adult Use Cannabis and Cannabis Products, provided that the Permittee is*  
21 *both an A-licensee and an M-licensee. A Cannabis Microbusiness that holds only an A-license may*  
22 *engage in the aforementioned Commercial activities relating to Adult Use Cannabis and Cannabis*  
23 *Products only. A Cannabis Microbusiness that holds only an M-License may engage in the*  
24 *aforementioned Commercial activities relating to Medicinal Cannabis and Cannabis Products only.*  
25

1           **(b) Operating Standards.** *In addition to the operating requirements set forth in Section 1618, a*  
2 *Cannabis Microbusiness shall comply with the operating standards set forth in Sections 1623, 1624,*  
3 *1626, and 1628 of this Article 16, and shall comply with the following additional operating standards:*

4                   **(1) A Cannabis Microbusiness shall conduct all four categories of Commercial activity**  
5 **(Cultivation, Manufacture, Distribution, and Sale) on the same Premises.**

6                   **(2) The area on which a Cannabis Microbusiness Cultivates Cannabis must be less than**  
7 **10,000 square feet.**

8                   **(3) The use of Volatile Solvents by a Cannabis Microbusiness is prohibited.**

9  
10           **SEC. 1628. STOREFRONT CANNABIS RETAILERS.**

11           **(a) Authorized activities.**

12                   **(1) A Medicinal Cannabis Retailer permit authorizes the Permittee to engage in the**  
13 **retail Sale of Medicinal Cannabis and Medicinal Cannabis products only.**

14                   **(2) A Cannabis Retailer permit authorizes the Permittee to engage in the retail Sale of**  
15 **both Medicinal and Adult Use Cannabis and Cannabis Products, provided that the Permittee is both an**  
16 **A-licensee and an M-licensee. A Cannabis Retailer Permittee that holds only an A-license may engage**  
17 **in the retail Sale of Adult Use Cannabis and Cannabis Products only. A Cannabis Retailer Permittee**  
18 **that holds only an M-License may engage in the retail Sale of Medicinal Cannabis and Cannabis**  
19 **Products only.**

20                   **(3) A Storefront Cannabis Retailer permit does not authorize the Permittee to engage in**  
21 **the Delivery of Cannabis or Cannabis Products to Customers unless the Director has authorized the**  
22 **Permittee to engage in deliveries, as set forth in Section 1622 of this Article 16.**

23           **(b) Operating Standards.** *In addition to the operating requirements set forth in Sections 1618,*  
24 *a Storefront Cannabis Retailer shall comply with the following additional operating requirements:*

25                   **(1) A Storefront Cannabis Retailer must be operated from a fixed place of business. It**

1 may not be operated out of a bus, truck, car, van, or any other mobile location or location that is  
2 capable of being mobile.

3 (2) A Storefront Cannabis Retailer shall post staff at the point of entry to the Premises  
4 to confirm that all Customers who enter are not underage, as set forth in Section 1619 of this Article  
5 16.

6 (3) A Storefront Cannabis Retailer must distribute to each Customer at the time of Sale,  
7 a fact sheet relating to safe Consumption of Cannabis and Cannabis Products, to be produced by the  
8 Department of Public Health.

9 (4) A Storefront Cannabis Retailer shall not employ or enter into any agreements with  
10 any physicians who recommend Medicinal Cannabis or with any third party that employs physicians  
11 who recommend Medicinal Cannabis.

12 (5) A Storefront Cannabis Retailer licensed to sell Adult Use Cannabis may not Sell  
13 more than 28.5 grams of non-concentrated Adult Use Cannabis or eight grams of concentrated Adult  
14 Use Cannabis Products to a Customer in the same business day.

15 (6) A Storefront Cannabis Retailer licensed to sell Medicinal Cannabis may not Sell  
16 more than 28.5 grams of non-concentrated Medicinal Cannabis or eight grams of concentrated  
17 Medicinal Cannabis Products to a Customer in the same business day, unless the Customer provides a  
18 Physician's Recommendation requiring a greater amount.

19 (7) A Storefront Cannabis Retailer may not:

20 (A) Allow Customers on the Premises during hours of closure;

21 (B) Store Cannabis or Cannabis Products in any location other than on the  
22 permitted Premises;

23 (C) Sell Cannabis or Cannabis Products through a drive-up window;

24 (D) Give away or Sell pressurized containers of butane or other materials that  
25 could be used in the home production of Cannabis extract.

1                   (8) A Storefront Cannabis Retailer may accept returns of Cannabis and Cannabis  
2 Products that were previously sold by the Storefront Cannabis Business, but shall not resell Cannabis  
3 or Cannabis Products that have been returned. A Storefront Cannabis Retailer shall treat any  
4 Cannabis and Cannabis Products that are abandoned on the Premises as a return. A Storefront  
5 Cannabis Retailer shall destroy all Cannabis and Cannabis Products that have been returned as  
6 required by the State of California.

7                   (9) A Storefront Cannabis Retailer must maintain an electronic age verification device  
8 to determine the age of any individual attempting to purchase Cannabis or Cannabis Products, which  
9 device shall be used for the Sale of the Cannabis or Cannabis Products to the Customer. The device  
10 shall be maintained in operational condition and all employees shall be instructed in its use. Cannabis  
11 and Cannabis products shall not be sold to a Customer if the electronic age verification device is not  
12 functioning.

13                   (10) All operating standards applicable to Sales of Cannabis and Cannabis Products that  
14 are made on the Premises of the Cannabis Business shall apply equally to Sales that are made by Delivery  
15 pursuant to Section 1622.

16  
17                   **SEC. 1629. DELIVERY-ONLY CANNABIS RETAILERS.**

18                   **(a) Authorized Activities.**

19                   A Delivery-Only Cannabis Retailer permit authorizes the Permittee to engage in the Delivery  
20 and Sale of both Medicinal Cannabis and Cannabis Products and Adult Use Cannabis and Cannabis  
21 Products, provided that the Permittee is both an A-licensee and an M-licensee. A Delivery-Only  
22 Cannabis Retailer Permittee that holds only an A-license may engage in the Delivery and retail Sale of  
23 Adult Use Cannabis and Cannabis Products only. A Delivery-Only Cannabis Retailer Permittee that  
24 holds only an M-License may engage in the Delivery and retail Sale of Medicinal Cannabis and  
25 Cannabis Products only.

1           **(b) Only Delivery Authorized.** The Premises of a Delivery-Only Cannabis Retailer must be  
2 closed to the public and all Sales must be conducted exclusively by Delivery. A Delivery-Only  
3 Cannabis Retailer may not permit entry on to its Premises by Customers.

4           **(c) Operating Standards.** In addition to the operating requirements set forth in Sections 1618,  
5 a Delivery-Only Cannabis Retailer shall comply with the following additional operating requirements:

6                   **(1) A Delivery-Only Cannabis Retailer licensed to sell Adult Use Cannabis may not**  
7 **Sell more than 28.5 grams of non-concentrated Adult Use Cannabis or eight grams of concentrated**  
8 **Adult Use Cannabis Products to a Customer in the same business day.**

9                   **(2) A Delivery-Only Cannabis Retailer licensed to sell Medicinal Cannabis may not Sell**  
10 **more than 28.5 grams of non-concentrated Medicinal Cannabis or eight grams of concentrated**  
11 **Medicinal Cannabis Products to a Customer in the same business day, unless the Customer provides a**  
12 **Physician's Recommendation requiring a greater amount.**

13                   **(3) All inventory must be stored on the Premises.**

14                   **(4) A Delivery-Only Cannabis Retailer may not employ or enter into any agreements**  
15 **with any physicians who recommend Medicinal Cannabis or with any third party that employs**  
16 **physicians who recommend Medicinal Cannabis.**

17                   **(5) A Delivery-Only Cannabis Retailer must provide to all Delivery personnel a remote**  
18 **electronic age verification device to determine the age of any individual attempting to purchase**  
19 **Cannabis or Cannabis Products, which device shall be used upon the Delivery of the Cannabis or**  
20 **Cannabis Products to the Customer. The device shall be maintained in operational condition and all**  
21 **employees shall be instructed in its use. Cannabis and Cannabis products shall not be Delivered to a**  
22 **Customer if the electronic age verification device is not functioning.**

23  
24           **SEC. 1630. INSPECTIONS.**

25           **(a) Any member of the Office of Cannabis, the Police Department, the Department of Public**

1 Health, the Department of Building Inspection, the Planning Department, and/or any other Referring  
2 Department (collectively, "Inspecting Departments") may enter and inspect the Premises of any  
3 Cannabis Business and any vehicle used for the purpose of Distribution or Delivery, to determine  
4 whether the Cannabis Business is operating in compliance with State law or this Article 16 (including  
5 compliance with conditions on the permit).

6 (b) Pursuant to this Section 1630, the Inspecting Departments shall have access to the  
7 Cannabis Business Premises, video footage, business records, data, inventory levels and information  
8 relating to Customers, vendors, Cannabis Products, plans and agreements (collectively, "Confidential  
9 Information"). To the extent authorized by law, an Inspecting Department shall not disclose  
10 Confidential Information to the public, and shall use the Confidential Information only for purposes  
11 specified in this Article 16 or other laws and regulations of the City specifically related to the City  
12 Permittees from whom such Confidential Information has been received. Notwithstanding the  
13 foregoing, the City may disclose Confidential Information:

14 (1) As may be required by the California Public Records Act or the San Francisco  
15 Sunshine Ordinance or other state or City law, or pursuant to a valid subpoena or court order; or

16 (2) In connection with any City enforcement proceeding relating to compliance with  
17 laws specifically applicable to Cannabis Businesses, but only to the extent the Confidential Information  
18 is relevant to the proceeding.

19 (c) The Police Department may conduct random, onsite "sting" operations on the Premises of  
20 Cannabis Retailers to determine compliance with Section 1619 of this Article 16. In conducting these  
21 inspections, the Police Department may enlist the assistance of persons under 21 years of age.

22  
23 **SEC. 1631. NOTICE OF VIOLATION; HEARING AND APPEAL.**

24 (a) If the Director determines that a Cannabis Business is operating in violation of this Article  
25 16 (which is deemed in the entirety of this Section 1631 to include a violation of a permit condition

1 and/or a violation of the rules and regulations adopted pursuant to this Article), the Director may issue  
2 a Notice of Violation to the Cannabis Business, the owner of real property where the violation  
3 occurred, and/or any other Persons the Director deems responsible for causing the violation.

4 (b) The Notice of Violation shall include the following information:

5 (1) That the Director has made a determination that the Cannabis Business is operating  
6 in violation of this Article 16;

7 (2) The alleged acts or failures to act that constitute the basis for the Director's  
8 determination;

9 (3) That the Director intends to take enforcement action against the Cannabis Business,  
10 owner of real property, and/or any other Person deemed responsible for causing the violation(s), and  
11 the nature of that action, including the administrative penalty and enforcement costs to be imposed,  
12 additional conditions on Cannabis Business Permit(s) that may be imposed, and/or the suspension or  
13 revocation of Cannabis Business Permit(s);

14 (4) That the Cannabis Business, owner of real property, and/or any other Person  
15 deemed responsible for causing the violation(s) has the right to request a hearing before the Director  
16 within 15 days after the Notice of Violation is mailed, and that the written request for hearing must  
17 state facts demonstrating that:

18 (A) If the violation is disputed, the Cannabis Business was operating in  
19 compliance with this Article 16 and/or the rules and regulations adopted pursuant to this Article; and

20 (B) Whether or not the violation is disputed, the Cannabis Business is currently  
21 operating in compliance with this Article 16 and/or the rules and regulations adopted pursuant to this  
22 Article, and has taken reasonable steps to prevent violations similar to the alleged violation(s), and  
23 arranged for the Director to re-inspect the Cannabis Business to confirm such reasonable steps.

24 Where no such showing has been made, any Person or entity served with a notice or order by the  
25 Director setting forth the nature of the violation of this Article, such person shall be presumed, in

1 subsequent administrative and/or civil proceedings, not to have corrected such violation.

2 (c) If no request for a hearing is filed with the Director within the appropriate period, or the  
3 request for hearing does not include the information required by subsection (b)(4) of this Section 1631,  
4 the right to request a hearing shall be deemed waived, and the Director's determination shall become  
5 final and effective 15 days after the Notice of Violation was mailed. The Director shall issue an order  
6 imposing the enforcement action and mail the order to the Persons served with the Notice of Violation.  
7 In subsequent civil proceedings, such violations shall be presumed not to have been corrected. Where  
8 no hearing is timely requested, an order suspending, revoking, or imposing additional conditions on a  
9 permit is final. The failure of the Person on whom the Notice of Violation is served to request a  
10 hearing shall constitute a failure to exhaust administrative remedies and shall preclude the Person  
11 from obtaining judicial review of the validity of the enforcement action.

12 (d) Upon a timely request for a hearing that includes the information required by subsection  
13 (b)(4) of this Section 1631, the Director shall, within 15 days of the request, notify the requester of the  
14 date, time, and place of the hearing. The Director shall make available to the requester the  
15 photographs and other recorded evidence obtained in support of the Notice of Violation as well as a  
16 copy of the report prepared by the Director's designee, if any, to support the Notice of Violation. Such  
17 hearing shall be held no later than 60 days after the Director receives the request, unless time is  
18 extended by mutual agreement of the requester and the Director.

19 (e) The Director shall conduct the hearing, or a hearing officer may be designated, who shall  
20 have the same authority as the Director to hear and decide the case and make any orders consistent  
21 with this Article 16. The Cannabis Business, owner of real property, or other Person(s) deemed  
22 responsible for causing the violation(s) may present evidence for consideration, subject to any rules  
23 adopted by the Director or hearing officer for the orderly conduct of the hearing. Within 30 days of the  
24 conclusion of the hearing, the Director or hearing officer shall render a decision in the form of a  
25 written order, which the Director shall promptly serve on the Cannabis Business, owner of real

1 property, or any other Persons charged in the Notice of Violation. The order shall state whether the  
2 Notice of Violation has been upheld (in whole or in part), and the enforcement action taken against  
3 each party.

4 (f) If the order directs the Cannabis Business, owner of real property, or other person to pay an  
5 administrative penalty and/or enforcement costs, such amount shall be paid within ten days from the  
6 mailing of the order; the order shall inform the recipient of such deadline for payment.

7 (g) If the order suspends or revokes a permit, or imposes additional permit conditions, it may  
8 be appealed to the Board of Appeals in the manner prescribed in Article 1 of the Business and Tax  
9 Regulations Code; the order shall inform the recipient of such right to appeal.

10  
11 **SEC. 1632. ADMINISTRATIVE PENALTIES AND ENFORCEMENT COSTS.**

12 (a) Penalty Amounts. Any Person who violates this Article 16 (which is deemed in the entirety  
13 of this Section 1632 to include a violation of a permit condition and/or a violation of the rules and  
14 regulations adopted pursuant to this Article) shall be subject to an administrative penalty imposed by  
15 order of the Director, not to exceed \$1,000 for each violation, for each day such violation occurs.  
16 However, in the case of a continuing violation, the Director shall not impose a daily administrative  
17 penalty for the second and subsequent days of such violation where the Director finds all of the  
18 following:

19 (1) In the 12 months preceding issuance of the Notice of Violation, the Cannabis  
20 Business was not issued a Notice of Violation, which was later upheld in whole or in part, for a similar  
21 violation;

22 (2) In the 12 months preceding issuance of the Notice of Violation, the Cannabis  
23 Business was issued no more than two Notices of Violation, which were later upheld in whole or in  
24 part, for any violation of this Article;

25 (3) The violation occurred notwithstanding that the Cannabis Business was acting in

1 good faith; and

2 (4) The Cannabis Business promptly took reasonable steps to prevent future violations  
3 similar to the alleged violation(s), and arranged for the Director to re-inspect the Cannabis Business to  
4 confirm such reasonable steps.

5 (b) Setting Administrative Penalty. In setting the amount of the administrative penalty, the  
6 Director shall consider any one or more of the relevant circumstances presented, including but not  
7 limited to the following: the nature and seriousness of the misconduct giving rise to the violation, the  
8 number of violations, the persistence of the misconduct, the length of time over which the misconduct  
9 occurred, the willfulness of the responsible party's misconduct, and the responsible party's assets,  
10 liabilities, and net worth.

11 (c) Setting Enforcement Costs. In any action where a violation is found, the Director shall  
12 assess the Office's costs of enforcement against the Cannabis Business or any other Persons the  
13 Director finds responsible for causing the violation.

14 (d) Payment and Collection of Administrative Penalty and Enforcement Costs. Any  
15 administrative penalty and/or enforcement costs assessed under this Article 16 is a debt to the City and  
16 County of San Francisco and shall be paid to the Treasurer of the City and County of San Francisco.  
17 Any amount paid late shall be subject to an additional late fine of 10% on the unpaid amount. The sum  
18 of the unpaid amount and the 10% late fine shall accrue interest at the rate of 1% per month (or  
19 fraction thereof) until fully paid; any partial payments made shall first be applied to accrued interest.  
20 The City may file a civil action or pursue any other legal remedy to collect such unpaid amount, fine,  
21 and interest. In any civil action for collection, the City shall be entitled to obtain a judgment for the  
22 unpaid amounts, fine, and interest, and for the costs and attorneys' fees incurred by the City in  
23 bringing such civil action.

24 (e) Lien for Administrative Penalty. Where an activity or condition on San Francisco real  
25 property has caused, contributed to, or been a substantial factor in causing the violation, the Director

1 may initiate proceedings to make any unpaid administrative penalty, enforcement costs, fine, and  
2 interest, and all additional authorized costs and attorneys' fees, a lien on the property. Such liens shall  
3 be imposed in accordance with Administrative Code Sections 10.230—10.237, or any successor  
4 provisions. Before initiating lien proceedings, the Director shall send a request for payment under  
5 Administrative Code Section 10.230A.

6  
7 **SEC. 1633. PERMIT SUSPENSIONS AND REVOCATIONS.**

8 (a) Grounds for Suspension or Revocation. The Director may revoke or suspend any  
9 Cannabis Business Permit if the Director finds any of the following circumstances to exist:

10 (1) Facts sufficient to support the denial of such permit on any ground set forth in  
11 Section 1615 of this Article 16;

12 (2) The Permittee has refused to permit an inspection of its business Premises or its  
13 operations under this Article;

14 (3) The Permittee has engaged in any conduct in connection with the operation of the  
15 Cannabis Business that violates this Article 16 (which is deemed in the entirety of this Section 1633 to  
16 include a violation of a permit condition and/or a violation of the rules and regulations adopted  
17 pursuant to this Article), or the Medicinal and Adult Use Cannabis Regulation and Safety Act, and any  
18 regulations promulgated thereto;

19 (4) The Director determines that such Cannabis Business is being managed, conducted,  
20 or maintained in a way that threatens the health or safety of clientsCustomers, employees, or the  
21 public at large;

22 (5) The Director finds good cause to suspend or revoke the permit in accordance with  
23 Business and Tax Regulations Code Sections 24 and 26;

24 (6) An Owner or manager of the Cannabis Business willfully violated this Article;

25 (7) An Owner or manager of the Cannabis Business willfully made a false statement to

1 the Office, or discovered a false statement made to the Office by any employee or agent of the Cannabis  
2 Business and failed to promptly correct such statement; or

3 (8) An Owner has been convicted of a controlled substance felony subsequent to the  
4 award of a Cannabis Business Permit;

5 (b) The Director may not suspend or revoke a Cannabis Business Permit under this Article 16  
6 until the Director has issued a Notice of Violation and provided the Cannabis Business an opportunity  
7 to be heard and respond as provided in Section 1631 of this Article 16. A Cannabis Business whose  
8 permit has been suspended or revoked must cease operations within 24 hours of the suspension or  
9 revocation order being final.

10 (c) Notwithstanding subsection (b) of this section 1633, the Director may suspend summarily  
11 any Cannabis Business Permit issued under this Article 16 when, in the judgment of the Director, the  
12 public health or safety requires such summary suspension. The Director shall provide written notice of  
13 such summary suspension to the permit holder by hand delivery, registered mail, or electronic mail.  
14 No more than three days after written notice of such summary suspension is given, the Director shall  
15 issue a Notice of Violation identifying the alleged acts or failures to act that constitute the basis for the  
16 summary suspension, and provide the Cannabis Business an opportunity to be heard and respond as  
17 provided in Section 1631 as to why the summary suspension should end. However, the time for hearing  
18 and decision shall be accelerated as follows: Upon a timely request for a hearing that includes the  
19 information required by subsection (b)(4) of Section 1631, the Director shall set any requested hearing  
20 within seven days, unless time is extended by mutual agreement of the affected parties; and the  
21 Director, or a designated hearing officer who shall have the same authority as the Director to hear and  
22 decide the case, and make any orders consistent with this Article 16, shall issue a decision on the  
23 summary suspension within seven days after hearing.

24 (c) If the Permittee appeals a decision by the Director or hearing officer upholding a summary  
25 suspension to the Board of Appeals, the summary suspension shall remain in effect until a final decision

1 is issued by the Board of Appeals. Where a permit is revoked after a summary suspension, the  
2 revocation shall be effective immediately and, if the Permittee appeals to the Board of Appeals, shall  
3 remain in effect until a final decision is issued by the Board of Appeals.

4  
5 **SEC. 1634. ADDITIONAL ADMINISTRATIVE ENFORCEMENT ORDERS.**

6 **(a) Order to Cease Operations Without Permit.** Upon a determination by the Director that  
7 any Cannabis Business is operating without all valid, effective, and current permits required by this  
8 Article 16, the Director shall issue an Order to Cease Operations Without Permit, which shall be  
9 posted prominently on the Premises and mailed to the Cannabis Business. Such Order shall state:

10 (1) The required permits which are lacking;

11 (2) That the Cannabis Business has 72 hours from the time of posting to demonstrate to  
12 the Director's satisfaction that the Cannabis Business has the required valid, effective, and current  
13 permits;

14 (3) If the Cannabis Business has not made such demonstration within 72 hours, that the  
15 Cannabis Business must immediately close until such time as it demonstrates to the Director's  
16 satisfaction that the Cannabis Business has the required permits; and

17 (4) If the Cannabis Business fails to close as required by this subsection (a), that the  
18 Director shall issue an Immediate Closure Order and close the Premises.

19 **(b) Order to Cease Operations without a Permit Inapplicable to Permit Suspensions and**  
20 **Revocations.** As set forth in subsection (b) of section 1633, a Cannabis Business whose permit has  
21 been suspended or revoked must cease operations within 24 hours of the suspension or revocation  
22 order being final. The Director is not required to issue an Order to Cease Operations without a Permit  
23 to a Cannabis Business whose Cannabis Business Permit is subject to a final order of suspension or  
24 revocation.

25 **(c) Immediate Closure Order.** The Director shall issue an Immediate Closure Order ordering

1 closure of a Cannabis Business under the following circumstances:

2 (1) 72 hours after the issuance of an Order to Cease Operations Without Permit, the  
3 Cannabis Business has not demonstrated to the Director's satisfaction that the Cannabis Business has  
4 the required permits, and the Cannabis Business nevertheless continues to operate;

5 (2) 24 hours after the suspension or revocation of a permit becomes final, the Cannabis  
6 Business continues to operate;

7 (3) Without delay, after issuance of a summary suspension.

8 (d) Enforcement. It is the duty of a Cannabis Business and any person owning or managing a  
9 Cannabis Business, to obey all orders issued under this Section 1634. To enforce an Immediate  
10 Closure Order, the Director shall take such steps as the Director views as reasonable and necessary to  
11 enforce such order, including but not limited to securing and barricading the Premises. The Director  
12 is hereby authorized to call upon the Police Department and other departments and bureaus to aid and  
13 assist the Director in such enforcement, and it shall then be their duty to enforce the provisions of this  
14 Article and to perform such duties as may come within their respective jurisdictions.

15 (e) Enforcement Costs. Following an Order under this Section 1634, the Director shall issue a  
16 separate order assessing the City's costs of enforcement, including the costs incurred by the Office as  
17 well as the costs incurred by any other City departments, against the Cannabis Business. Such  
18 assessments shall be paid within 10 days of issuance of the separate order. Unpaid amounts shall  
19 accrue late fines, penalties, and interest, and may be collected as provided in Section 1632 of this  
20 Article 16.

21  
22 **SEC. 1635. NUISANCE.**

23 Any building or place used by a Cannabis Business in violation of this Article, or where any  
24 Commercial Cannabis Activity occurs in violation of this Article 16, is a nuisance which may be  
25 remedied as provided by law, including but not limited to the provisions of Article 3 (commencing with

1 Section 11570) of Chapter 10 of Division 10 of the California Health and Safety Code.

2  
3 **SEC. 1636. ENFORCEMENT BY CITY ATTORNEY.**

4 (a) The City Attorney may at any time institute civil proceedings for injunctive and monetary  
5 relief, including civil penalties, against any Person for violations of this Article 16, without regard to  
6 whether the Director has issued a notice of violation, instituted abatement proceedings, scheduled or  
7 held a hearing on a notice of violation, or issued a final decision.

8 (b) At any time, the Director may refer a case to the City Attorney's Office for civil  
9 enforcement, but a referral is not required for the City Attorney to bring a civil action under subsection  
10 (a).

11 (c) Action for Injunction and Civil Penalty. Any Person that violates any provision of this  
12 Article 16 shall be enjoined and shall be subject to a civil penalty in an amount not to exceed \$1,000  
13 for each day such violation is committed or permitted to continue, which penalty shall be assessed and  
14 recovered in a civil action brought in the name of the people of the City and County of San Francisco  
15 by the City Attorney in any court of competent jurisdiction. In assessing the amount of the civil penalty,  
16 the court shall consider any one or more of the relevant circumstances presented by any of the parties  
17 to the case, including but not limited to, the following: the nature and seriousness of the misconduct  
18 giving rise to the violation, the number of violations, the persistence of the misconduct, the length of  
19 time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the  
20 defendant's assets, liabilities and net worth.

21 (d) Attorneys' fees. The prevailing party in any court case or special proceeding to enforce  
22 this Article 16 shall recover reasonable attorneys' fees if the City Attorney elects, at the initiation of the  
23 action, to seek recovery of attorneys' fees and provides notice of such intention to the adverse party or  
24 parties. In no court case or special proceeding shall an award of attorneys' fees to a prevailing party  
25 exceed the amount of reasonable attorneys' fees incurred by the City.

1 (e) Remedies under this Section 1636 are non-exclusive and cumulative to all other remedies  
2 available at law or equity.

3  
4 **SECTION 1637. PUBLIC HEALTH EDUCATION CAMPAIGN.**

5 The Department of Public Health shall conduct an ongoing public health education  
6 campaign designed to educate the public about the safe consumption and health benefits of  
7 cannabis and cannabis products.

8  
9 **SEC. 16378. UNDERTAKING FOR THE GENERAL WELFARE.**

10 In enacting and implementing this Article 16, the City is assuming an undertaking only to  
11 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an  
12 obligation for breach of which it is liable in money damages to any person who claims that such breach  
13 proximately caused injury. To the fullest extent permitted by law, the City shall assume no liability  
14 whatsoever, and expressly does not waive sovereign immunity, with respect to the permitting and  
15 licensing provisions of this Article, or for the activities of any Cannabis Business. To the fullest extent  
16 permitted by law, any actions taken by a public officer or employee under the provisions of this Article  
17 shall not become a personal liability of any public officer or employee of the City.

18  
19 **SEC. 16389. SEVERABILITY.**

20 If any section, subsection, sentence, clause, phrase, or word of this Article 16, or any  
21 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a  
22 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining  
23 portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have  
24 passed this Article and each and every section, subsection, sentence, clause, phrase, and word not  
25 declared invalid or unconstitutional without regard to whether any other portion of this ordinance or

1 application thereof would be subsequently declared invalid or unconstitutional.

2  
3 Section 3. Article 1 of the Business and Regulations Code is amended by revising  
4 Section 8, to read as follows:

5  
6 **SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.**

7 Except for variance decisions and permits issued by the Entertainment Commission or  
8 its Director, appeals to the Board of Appeals shall be taken within 15 days from the making or  
9 entry of the order or decision from which the appeal is taken. Appeals of variance decisions  
10 shall be taken within 10 days.

11 Appeals of actions taken by the Entertainment Commission or its Director on the  
12 granting, denial, amendment, suspension, or revocation of a permit, or on denial of exceptions  
13 from regulations for Extended-Hours Premises Permit, shall be taken within 10 days from the  
14 making of the decision. Nothing in this Section is intended to require an appeal to the Board of  
15 Appeals if any provision of Article 15, Article 15.1 (Entertainment Regulations Permit and  
16 License Provisions) or Article 15.2 (Entertainment Regulations for Extended-Hours Premises)  
17 of the Police Code governing these permits otherwise provides. Appeals shall be taken by  
18 filing a notice of appeal with the Board of Appeals and paying to said Board at such time a  
19 filing fee as follows:

20 \* \* \* \*

21 (i) Additional Requirements.

22 (1) Notice of appeal shall be in such form as may be provided by the rules of the  
23 Board of Appeals.

24 (2) On the filing of any appeal, the Board of Appeals shall notify in writing the  
25 department, board, commission, officer or other person from whose action the appeal is taken

1 of such appeal. On the filing of any appeal concerning a structural addition to an existing  
2 building, the Board of Appeals shall additionally notify in writing the property owners of  
3 buildings immediately adjacent to the subject building.

4 (3) The Board of Appeals shall fix the time and place of hearing, which shall be  
5 not less than 10 nor more than 45 days after the filing of said appeal, and shall act thereon not  
6 later than 60 days after such filing or a reasonable time thereafter. In the case of a permit  
7 issued by the Entertainment Commission or its Director, the Board of Appeals shall set the  
8 hearing not less than 15 days after the filing of said appeal, shall act thereon not more than 30  
9 days after such filing, and shall not entertain a motion for rehearing.

10 (4) With respect to any decision of the Board of Appeals related to any "dwelling"  
11 in which "protected class members" are likely to reside (each as defined in Administrative  
12 Code Chapter 87), the Board of Appeals shall comply with the requirements of Administrative  
13 Code Chapter 87 which requires, among other things, that the Board of Appeals not base any  
14 decision regarding the development of such units on information which may be discriminatory  
15 to any member of a "protected class."

16 (5) Pending decision by the Board of Appeals, the action of such department,  
17 board, commission, officer or other person from which an appeal is taken, shall be  
18 suspended, except for: (1) actions of revocation or suspension of permit by the Director of  
19 Public Health when determined by the Director to be an extreme public health hazard; ~~and~~ (2)  
20 actions by the Zoning Administrator or Director of the Department of Building Inspection  
21 stopping work under or suspending an issued permit; ~~and~~ (3) actions of suspension or  
22 revocation by the Entertainment Commission or the Director of the Entertainment Commission  
23 when the suspending or revoking authority determines that ongoing operation of the activity  
24 during the appeal to the Board of Appeals would pose a serious threat to public safety; ~~and~~ (4)

1 actions of the Director of the Office of Cannabis awarding a Temporary Medicinal Cannabis Business  
2 Permit.

3  
4 Section 4. The Health Code is amended by adding new Article 8A, consisting of  
5 Sections 8A.1-8A.8, to read as follows:

6  
7 **ARTICLE 8A: CANNABIS CONSUMPTION PERMITS**

8  
9 **SEC. 8A.1. DEFINITIONS.**

10 (a) Terms not defined in this Article 8A shall have the meaning attributed to them in Section  
11 1602 of the Police Code.

12 (b) As used in this Article 8A, the following words or phrases shall mean:

13 “Designated Smoking Room” means a designated area on the Premises of a Cannabis  
14 Business where Customers may Smoke Cannabis.

15 “Director” means the Director of the Department of Public Health, or his or her designee.

16 “Permittee” means any person or business to whom a Cannabis Consumption Permit is issued  
17 under this Article 8A, and any authorized agent or designee of such person or business.

18 “Pre-packaged Cannabis Product” means a Cannabis Product that is packaged by a cannabis  
19 business that holds a valid license from the state of California authorizing it to engage in the  
20 distribution or manufacture of Cannabis Products, and that is served to a customer in its original  
21 packaging.

22 “Preparing” or “Preparation” means the heating, re-heating, or serving of Cannabis Products,  
23 and does not include cooking or infusing.

24  
25 **SEC. 8A.2. PERMITS FOR THE ON-SITE CONSUMPTION OF CANNABIS.**

1 It shall be unlawful to allow the Consumption of Cannabis or Cannabis Products on the  
2 Premises of a commercial business without obtaining and maintaining:

3 (a) A permit therefor issued by the Department of Public Health; and

4 (b) A Medicinal Cannabis Retailer, Cannabis Retailer, or Cannabis Microbusiness permit  
5 issued by the Office of Cannabis; and

6 (c) A State Cannabis License.

7  
8 **SEC. 8A.3. CANNABIS CONSUMPTION PERMIT TYPES.**

9 There are ~~two~~three types of permits available for the purpose of legalizing and regulating the  
10 Consumption of Cannabis Products on the Premises of commercial businesses:

11 (a) Cannabis Consumption – Prepackaged Cannabis Products – No Preparation. A  
12 Permittee in possession of this permit type may allow the on-site Consumption of Pre-Packaged  
13 Cannabis Products but may not engage in the Preparation of Cannabis Products.

14 (b) Cannabis Consumption – Limited Preparation of Cannabis Products. A Permittee in  
15 possession of this permit type may allow the on-site Consumption of Pre-Packaged Cannabis Products,  
16 and may also Prepare and allow the Consumption of Cannabis Products.

17 (c) Cannabis Smoking. A Permittee in possession of this permit type may allow the  
18 on-site Smoking of Cannabis, and may also allow the Consumption of Pre-packaged  
19 Cannabis Products, and/or the Consumption of prepared Cannabis Products, subject to  
20 approval by the Director.

21  
22 **SEC. 8A.4. PERMIT APPLICATIONS AND AWARDS.**

23 (a) Every applicant for a Cannabis Consumption Permit shall file an application with the  
24 Director upon a form provided by the Director and provide such additional information as may be  
25 required by the Director, in the exercise of his or her discretion. Every applicant shall pay a non-

1 refundable application fee, unless the applicant is eligible for a fee waiver or reduction, as  
2 authorized by ordinance.

3 (b) A person may not file and the Director may not accept an application for a Cannabis  
4 Consumption Permit until after the Director has adopted rules, regulations, and/or guidelines to  
5 establish the minimum health and safety standards applicable to Permittees, as set forth in Section  
6 8A.8.

7 (c) Upon receipt of a complete application, the Director shall refer the application to the  
8 Planning Department, the Department of Building Inspection, and Fire Department (the "Referring  
9 Departments). The Referring Departments shall determine whether an inspection of the premises is  
10 warranted in light of the type of Cannabis Consumption Permit sought and any inspection history at the  
11 premises, and shall conduct inspections as may be required. Said departments shall advise the  
12 Director in writing whether they recommend approval or denial of the application for the Cannabis  
13 Consumption permit, and the basis for that recommendation.

14 (d) Upon review of a complete application and consideration of the recommendations of the  
15 Referring Departments, the Director shall either grant or deny a permit, as specified in more detail in  
16 subsections (e) and (f) of this Section 8A.4.

17 (e) In granting a permit, the Director may impose conditions as are, in his or her judgment,  
18 necessary to protect the health and safety of the Permittee's employees and customers.

19 (f) No Cannabis Consumption permit shall be issued if the Director finds that:

20 (1) The applicant has provided materially false information or documents (which  
21 includes omitting material information or documents) in support of the application.

22 (2) The applicant failed to submit a complete application and/or did not provide all of  
23 the information required in connection with the application.

24 (3) The applicant has not demonstrated that it can meet the health and safety standards  
25 adopted by the Director under Section 8A.8.

1           (4) The applicant for a Cannabis Smoking permit has not demonstrated to the  
2 Director's satisfaction that the Designated Smoking Room meets or will meet the ventilation  
3 standards set forth in subsection (i) of Section 8A.6.

4           (45) A Referring Department recommends that the application be denied and states a  
5 sound basis for such recommendation.

6           (56) The on-site Consumption of Cannabis or Cannabis Products, if permitted, would  
7 not comply with all applicable laws, including but not limited to the Building, Planning, Housing,  
8 Police, Fire, and Health Codes, and the Medicinal and Adult Use Cannabis Regulation and Safety Act,  
9 2017 Cal. Legis. Serv. Ch. 27 (S.B. 94), and its implementing regulations, as may be amended from  
10 time to time.

11           (g) Notwithstanding anything in this Article 8A, a Medicinal Cannabis Retailer,  
12 Cannabis Retailer, or Cannabis Microbusiness that applies for a Cannabis Smoking  
13 Consumption Permit ("Cannabis Smoking-Permit Applicant") may allow Smoking on the  
14 Premises until such time as its application for a Cannabis Consumption permit has been  
15 approved or denied by the Director, provided that:

16           (1) The Cannabis Smoking Permit Applicant previously held a permit to operate  
17 a Medical Cannabis Dispensary at the same location, issued by the Director under Article 33  
18 of the Health Code;

19           (2) The Cannabis Smoking Permit Applicant was not prohibited by the Planning  
20 Department, the Planning Commission, or the Director from allowing smoking on the premises  
21 of the formerly permitted Medical Cannabis Dispensary; and

22           (3) The Cannabis Smoking Permit Applicant submits its application for a  
23 Cannabis Smoking Consumption Permit not less than 30 days after such applications are  
24 made available by the Director.

1                    **SEC. 8A.5. PAYMENT OF ANNUAL LICENSE FEE.**

2                    The license fee for a Cannabis Consumption Permit shall be paid annually on or before March  
3 31, in accordance with the provisions of Section 76.1 of the Business and Tax Regulations Code.

4  
5                    **SEC. 8A.6. OPERATING STANDARDS.**

6                    (a) No Permittee shall allow the on-site Consumption of Cannabis or Cannabis Products in a  
7 manner inconsistent with any permit condition imposed by the Director, or inconsistent with any rules,  
8 regulations, or guidelines promulgated by the Director under Section 8A.8.

9                    (b) Any employee or agent of the Department of Public Health may enter and inspect the  
10 Premises of a Permittee during business hours, without notice.

11                    (c) No Permittee shall authorize the on-site Consumption of Cannabis or Cannabis Products  
12 outside of the business' operating hours, as such hours may be established by law or regulation or  
13 required as a condition of the permit.

14                    (d) Permittees shall post one or more notices of sufficient size, lettering, and prominence to  
15 advise customers that the Consumption of Cannabis Products on the sidewalk or in other areas  
16 adjacent to the Premises is prohibited.

17                    (e) Access to the area where the Consumption of Cannabis Products is allowed shall be  
18 restricted to persons 21 years of age and older, or persons 18 years of age and older if the Permittee is  
19 authorized to Sell Medicinal Cannabis Products.

20                    (f) Cannabis Consumption shall not be visible from any public place or any nonage-restricted  
21 area on the Premises.

22                    (g) The sale and Consumption of alcohol or tobacco products are not allowed on the Premises.

23                    (h) A Permittee shall comply with laws governing Cannabis Businesses and retail food  
24 establishments, including but not limited to the California Retail Food Code and Article 8 of the Health  
25 Code, where applicable.

1 (i) A Designated Smoking Room must meet the following ventilation standards:

2 (1) The Designated Smoking room must have a separate heating, ventilation,  
3 and air-conditioning (HVAC) system such that none of the air in the Designated Smoking  
4 Room will be recirculated into other parts of the Cannabis Business' Premises.

5 (2) The air from a Designated Smoking Room must be directly exhausted to the  
6 outdoors by a filtration system that, at a minimum, eliminates all odor and smoke.

7 (3) Smoke from the Designated Smoking Room must not drift to other portions  
8 of the Premises.

9 (4) The Designated Smoking Room must be completely separated from the  
10 remainder of the Premises by solid partitions or glazing without openings other than doors,  
11 and all doors leading to the Designated Smoking Room must be self-closing. All doors to the  
12 Designated Smoking Room must be installed with a gasket to provide a seal where the door  
13 meets the stop.

14 (5) The Designated Smoking Room must meet such other health and safety  
15 standards as are adopted by the Director under Section 8A.8 of this Article 8.

16 (j) A Permittee with a Cannabis Smoking permit may not require employees to enter  
17 the Designated Smoking Room as a condition of their employment.

18  
19 **SEC. 8A.7. ADMINISTRATIVE PENALTIES; PERMIT SUSPENSIONS AND**  
20 **REVOCATIONS; NOTICE OF VIOLATIONS; HEARING AND APPEAL.**

21 (a) Any Person who violates this Article 8A (which is deemed to include a violation of  
22 the rules, regulations, and guidelines adopted pursuant to this Article 8A) shall be subject to  
23 an administrative penalty imposed by order of the Director, not to exceed \$1,000 for each  
24 violation, for each day such violation occurs.

25 (b) The Director may revoke or suspend a Cannabis Consumption permit if the Director

1 finds that the Permittee has engaged in conduct that violates this Article 8A or its  
2 implementing rules, regulations, and guidelines, or if the Director finds that the Permittee is  
3 being managed, conducted, or maintained in a way that threatens the health or safety of  
4 Customers, employees, or the public at large.

5 (ac) If the Director determines that a Cannabis Business is operating in violation of this Article  
6 8A or rules, regulations, or guidelines adopted pursuant to this Article, the Director shall issue a  
7 Notice of Violation to the Permittee. The Notice of Violation shall include the following information:  
8 the alleged act or failure to act that constitutes the basis for the Director's determination; that the  
9 Director intends to take enforcement action against the Permittee, and the nature of that action,  
10 specifically, the administrative penalty to be imposed, additional permit conditions to be imposed,  
11 and/or suspension or revocation of the permit; and that the Permittee may request a hearing before the  
12 Director within 15 days after the Notice of Violation is mailed, to challenge the Director's  
13 determination and/or the proposed enforcement action.

14 (ad) If no request for a hearing is timely filed with the Director, the right to request a hearing  
15 shall be deemed waived, and the Director's determination shall become final and effective 15 days  
16 after the Notice of Violation was mailed. The failure of the Person on whom the Notice of Violation is  
17 served to request a hearing shall constitute a failure to exhaust administrative remedies and shall  
18 preclude the Person from obtaining judicial review of the validity of the enforcement action.

19 (ae) Upon a timely request for a hearing, the Director shall, within 15 days of the request,  
20 notify the requester of the date, time, and place of the hearing.

21 (af) The Director shall conduct the hearing, or may designate a hearing officer who shall have  
22 the same authority as the Director to hear and decide the case.

23 (ag) An order after hearing to suspend or revoke a permit, or to impose additional permit  
24 conditions, may be appealed to the Board of Appeals in the manner prescribed in Article 1 of the  
25 Business and Tax Regulations Code; and such an order shall inform the recipient of this right to

1 appeal.

2  
3 **SEC. 8A.8. RULES AND REGULATIONS.**

4 (a) The Director shall adopt rules, regulations, and/or guidelines to establish the minimum  
5 health and safety standards that businesses must maintain to be eligible to receive and maintain a  
6 Cannabis Consumption permit. Such health and safety standards shall be sufficient in the Director's  
7 judgment to, among other things: protect the health and safety of consumers and employees of the  
8 cannabis business, prevent the ingestion of adulterated Cannabis Products, promote sanitary  
9 conditions in the Consumption and Preparation areas, and prevent food-borne diseases that might  
10 occur through unsafe food or Cannabis Product handling procedures.

11 (b) The Director may adopt rules, regulations, and guidelines that are not inconsistent with this  
12 Article 8A, for the purpose of implementing and enforcing this Article.

13  
14 Section 5. Article 19F of the Health Code is hereby amended by revising Sections  
15 1009.22 and 1009.23, to read as follows:

16  
17 **SEC. 1009.22. PROHIBITING SMOKING IN BUILDINGS, CERTAIN VEHICLES,**  
18 **CERTAIN UNENCLOSED AREAS, ENCLOSED STRUCTURES CONTAINING CERTAIN**  
19 **USES, AND SPORTS STADIUMS.**

20 (a) Smoking is prohibited in buildings and enclosed structures, throughout the building  
21 or structure and in the common areas, such as the elevators, hallways, stairways, restrooms,  
22 conference and meeting rooms, and eating and break rooms, and certain unenclosed areas  
23 that contain any of the facilities or uses set forth below.

24 (1) Facilities owned or leased by the City and County of San Francisco; every  
25 commission, department, or agency; with jurisdiction over such property shall adopt

1 regulations or policies implementing the provisions of this Article 19F; provided, however, with  
2 respect to facilities located outside the City and County of San Francisco, the regulations or  
3 policies shall prohibit smoking in enclosed areas during all times;

4 (2) Facilities in which the business of any governmental body or agency is  
5 conducted, including hearing rooms, courtrooms, or places of public assembly;

6 (3) Polling places;

7 (4) Health facilities, including, but not limited to, hospitals, long term care  
8 facilities, doctors' and dentists' offices, inpatient rooms, and outpatient examination and  
9 treatment rooms;

10 (5) Educational facilities;

11 (6) Business establishments, ~~except that persons qualifying under California~~  
12 ~~Health and Safety Code Sections 11362.7 et seq. to use medicinal cannabis may smoke the~~  
13 ~~smoking of medicinal cannabis or and adult use cannabis may occur on the premises of a~~  
14 ~~Medicinal Cannabis Retailer, or a Cannabis Retailer, or a Cannabis Microbusiness with a valid~~  
15 ~~permit issued by the Office of Cannabis under Article 16 of the Police Code, subject to the~~  
16 ~~limitations set forth in Section 1009.23 of this Article 19F;~~

17 (7) Nonprofit establishments, except that persons qualifying under California  
18 Health and Safety Code Section 11362.7 et seq. to use medical marijuana may smoke  
19 medical marijuana on the premises of a Medical Cannabis Dispensary with a valid permit  
20 issued by the Department of Public Health under Article 33 of the Health Code prior to  
21 September 26, 2017, provided that the medical cannabis dispensary was not prohibited by the Planning  
22 Department, the Planning Commission, or the Director of Health from allowing smoking on the  
23 premises;

24 (8) Aquariums, galleries, libraries, and museums;

25 (9) Child care facilities, except when located in private homes;

1 (10) Facilities used for exhibiting motion pictures, drama, dance, musical  
2 performance, lectures, or other entertainment;

3 (11) Sports arenas; provided, however, that sSubsection (b) shall govern sports  
4 stadiums as defined in that subsection;

5 (12) Convention facilities;

6 (13) Restaurants, ~~except that smoking will be allowed in outdoor and sidewalk dining~~  
7 ~~areas of restaurants until six months after the effective date of this ordinance;~~

8 (14) Bars and Taverns, except for historically compliant semi-enclosed smoking  
9 rooms, the portion of an outdoor patio at least ~~ten~~10 feet away from the entry, exit, or operable  
10 window of the bar or tavern, or as specified in Section s 1009.23(c) or 1009.23(d);

11 (15) Tourist Lodging Facilities;

12 (16) Homeless Shelters, including, but not limited to, the sleeping areas of  
13 those buildings;

14 (17) Tobacco Shops, except as specified in Section 1009.23(e);

15 (18) Facilities used to conduct charity bingo games pursuant to California Penal  
16 Code Section 326.5, during such times that persons are assembled in the facility in  
17 connection with such games; and,

18 (19) Farmers Markets, whether on public or private property.

19 \* \* \* \*

20  
21 **SEC. 1009.23. EXCEPTIONS.**

22 The following places shall not be subject to this Article 19F:

23 \* \* \* \*

24 (f) Medicinal Cannabis Retailers, Cannabis Microbusinesses, and Cannabis Retailers  
25 that have received and maintain:

1                   (1) A Cannabis Business Permit issued by the Director of the Office of  
2 Cannabis under Article 16 of the Police Code; and

3                   (2) A Cannabis Consumption Permit that authorizes the smoking of cannabis,  
4 issued by the Director of Health under Article 8A of the Health Code, unless the smoking of  
5 cannabis is authorized under subsection (g) of Section 8A.4, pending the approval or denial of  
6 an application for such permit. ~~permitted by the Office of Cannabis under Article 16 of the~~  
7 ~~Police Code that submit to the Director all documents required by the Director to demonstrate~~  
8 ~~that the Medicinal Cannabis Retailer or Cannabis Retailer previously held a valid permit to~~  
9 ~~operate a Medical Cannabis Dispensary, issued by the Director under Article 33 of the Health~~  
10 ~~Code prior to September 26, 2017, at the same location; was not prohibited by the Planning~~  
11 ~~Department or the Planning Commission from allowing smoking on the premises of the~~  
12 ~~Medical Cannabis Dispensary; and meets such ventilation standards as may be established~~  
13 ~~by the Director to protect the health and safety of the Medicinal Cannabis Retailer's or~~  
14 ~~Cannabis Retailer's employees, neighbors, and customers.~~

15                   ~~(1) A Medicinal Cannabis Retailer or Cannabis Retailer that qualifies for an~~  
16 ~~exemption under this subsection (f) may allow the smoking of medicinal cannabis and adult~~  
17 ~~use cannabis in such indoor area(s) within its premises as may be approved by the Director,~~  
18 ~~but may not allow the smoking of tobacco products or adult use cannabis.~~

19                   ~~—— (2) A Medicinal Cannabis Retailer or Cannabis Retailer that seeks to allow the~~  
20 ~~smoking of medicinal cannabis or adult use cannabis on its premises pursuant to this~~  
21 ~~subsection (f) shall have three months from the date of receipt of its Cannabis Business~~  
22 ~~Permit to demonstrate compliance with the ventilation standards established by the Director.~~

23                   ~~—— (3) This exemption is nontransferable and immediately expires if any of the~~  
24 ~~following occur:~~

1                   ~~\_\_\_\_\_ (A) There is a change in the ownership interest(s) in the Medicinal~~  
2 ~~Cannabis Retailer or Cannabis Retailer, meaning the aggregate change of 50% or more of the~~  
3 ~~ownership of the business;~~

4                   ~~\_\_\_\_\_ (B) There are structural alterations made to the area where smoking is~~  
5 ~~approved that are not approved by the Director;~~

6                   ~~\_\_\_\_\_ (C) The Medicinal Cannabis Retailer or Cannabis Retailer is no longer~~  
7 ~~located in the original permitted commercial building; or~~

8                   ~~\_\_\_\_\_ (D) The Medicinal Cannabis Retailer or Cannabis Retailer found to have~~  
9 ~~permitted smoking of tobacco or nicotine products or adult use cannabis, or to have allowed~~  
10 ~~the smoking of medicinal cannabis or adult use cannabis in places or by persons not~~  
11 ~~authorized by the Director.~~

12  
13                   Section 6. Article 33 of the Health Code is hereby amended by revising Sections 3301  
14 and 3308, and adding new Sections 3322 and 3323, to read as follows:

15  
16                   **SEC. 3301. DEFINITIONS.**

17                   For the purposes of this Article 33:

18                   \* \* \* \*

19                   (f) "Medical cannabis dispensary" means a cooperative or collective of ten or more  
20 qualified patients or primary caregivers that facilitates the lawful cultivation and distribution of  
21 cannabis for medical purposes and operates not for profit, consistent with California Health &  
22 Safety Code Sections 11362.5 et seq., with the Guidelines for the Security and Non-diversion  
23 of Marijuana Grown for Medical Use issued by the California Attorney General in August  
24 2008, and with this ordinance. A cooperative or collective shall be deemed to be of 10 or more  
25 qualified patients or primary caregivers if it distributes cannabis to more than 10 persons during any

1 consecutive 30-day period. A cooperative must be organized and registered as a Consumer  
2 Cooperative Corporation under the Corporations Code, Sections 12300, et seq., or a  
3 Nonprofit Cooperative Association under the Food and Agricultural Code, Sections 54002, et  
4 seq. A collective may be organized as a corporation, partnership, or other legal entity under  
5 state law but must be jointly owned and operated by its members. As set forth in Section  
6 3308(q), a medical cannabis dispensary may purchase or obtain cannabis only from members  
7 of the cooperative or collective and may sell or distribute cannabis only to members of the  
8 cooperative or collective. As set forth in Section 3308(c), a medical cannabis dispensary may  
9 operate only on a not-for-profit basis and pay only reasonable compensation to itself and its  
10 members and pay only reasonable out-of-pocket expenses.

11 \* \* \* \*

12  
13 **SEC. 3308. OPERATING REQUIREMENTS FOR MEDICAL CANNABIS**  
14 **DISPENSARY.**

15 \* \* \* \*

16 (bb) A medical cannabis dispensary must be operated from a fixed place of business. It may  
17 not be operated out of a bus, truck, car, van, or any other mobile location or location that is capable of  
18 being mobile.

19  
20 **SEC. 3322. TRANSITION PROVISION.**

21 (a) Terms not defined in this Section 3322 shall have the meaning attributed to them in  
22 Section 1602 of the Police Code.

23 (ab) Notwithstanding any provision in this Article 33, starting January 1, 2018, a person may  
24 not file and the Department of Public Health may not accept an application for a medical cannabis  
25 dispensary permit.

1            (bc) Notwithstanding any provision in this Article 33, starting April 1, 2018, a medical  
2 cannabis dispensary is not authorized by this Article 33 to engage in the cultivation of cannabis.

3            (d) Notwithstanding any provision in this Article 33, starting January 1, 2018, a medical  
4 cannabis dispensary may Sell Adult Use Cannabis and Cannabis Products, provided the  
5 medical cannabis dispensary:

6                    (1) Applies for and receives a State Cannabis License authorizing the retail  
7 Sale of Adult Use Cannabis;

8                    (2) Receives a determination from the Planning Department that the Sale of  
9 Adult Cannabis on the Premises is in compliance with the Planning Code; and

10                   (3) Complies with all of the requirements imposed on Cannabis Retailers under  
11 Article 16 of the Police Code and its implementing rules and regulations, any violation of  
12 which shall be treated as a violation of this Article 33, subject to the penalties set forth in  
13 Sections 3314 and 3315.

14            (ee) For purposes of Section 26050.1 of the California Business and Professions Code, a valid  
15 medical cannabis dispensary permit shall serve as a valid license, permit, or other authorization to  
16 engage in the retail sale of medicinal cannabis, ~~and medicinal cannabis products, adult use~~  
17 cannabis, and adult use cannabis products at the permitted location, but shall not serve as a valid  
18 license, permit, or other authorization to engage in the ~~retail sale of adult use cannabis or~~  
19 cannabis products, or the ~~commercial cultivation of cannabis of any kind.~~

20  
21            **SEC. 3323. SUNSET PROVISION.**

22            This Article 33 shall expire by operation of law on December 31, 2018, at which time all  
23 permits authorizing the operation of a Medical Cannabis Dispensary issued under this Article 33 shall  
24 be rendered invalid. Upon expiration of the Article, the City Attorney shall cause it to be removed from  
25 the Health Code.

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Section 7. The Business and Tax Regulations Code is hereby amended by revising Article 1, Sections 1 and 1.77, to read as follows:

**SEC. 1. DESIGNATING DEPARTMENTS FOR ISSUANCE OF PERMITS.**

Permits shall be issued for the location and conduct of the businesses, enterprises, or activities, enumerated hereinafter in Sections 1.1 to 1.76Z, inclusive, by the department or office authorized by Sections 1.1 to 1.76Z, inclusive, and Section 2 of this Article 1 to issue each such class of permit, and subject to the approval of other departments and offices of the City and County, where specifically designated in any such case; provided that permit or license fees as required by ordinance shall be collected by the Tax Collector as provided in Section 3 of this Article.

\* \* \* \*

**SEC. 1.77. ~~MEDICAL CANNABIS~~ BUSINESSES/ DISPENSARIES.**

For the establishment, maintenance, and operation of ~~medical cannabis dispensaries~~ by the Department of Public Health Cannabis Businesses by the Office of Cannabis.

Section 8. The Administrative Code is hereby amended by revising Section 96B.7, to read as follows:

**SEC. 96B.7. ~~MARIJUANA~~ CANNABIS POLICY REFORM.**

~~(a)~~—It shall be the policy of the City and County of San Francisco to support policies to tax and regulate ~~marijuana~~ cannabis for adults.

1           ~~(b) Beginning three months after the effective date of this Ordinance and continuing annually~~  
2 ~~thereafter, the Clerk of the Board of Supervisors shall send letters to Governor of California, the~~  
3 ~~President of the United States, and all elected officials representing San Franciscans in the U.S. House~~  
4 ~~of Representatives, the U.S. Senate, the California Assembly and the California Senate. The letters shall~~  
5 ~~state, "The Board of Supervisors of the City and County of San Francisco has passed an ordinance to~~  
6 ~~deprioritize marijuana offenses by adults, and requests that the Federal and California State~~  
7 ~~governments take immediate steps to tax and regulate marijuana use, cultivation, and distribution and~~  
8 ~~to authorize State and local communities to do the same." The Clerk shall send this letter annually until~~  
9 ~~State and Federal laws are changed accordingly.~~

10  
11           Section 9. Renumbering of Police Code Article 23 Sections. Existing Sections 1600-  
12 1618 of Article 23 of the Police Code shall be renumbered as new Sections 2300-2318,  
13 respectively, and any cross-references in the Municipal Code to existing Sections 1600-1618  
14 shall be renumbered accordingly. These changes are not made for any substantive reason  
15 and shall have no substantive effect. The City Attorney shall direct the publisher of the  
16 Municipal Code to take all appropriate steps to effectuate this provision.

17  
18           Section 10. The Administrative Code is amended by adding new Section 10.100-162  
19 to Chapter 10, Article XIII, to read as follows.

20  
21           **SEC. 10.100-162. Office of Cannabis Equity Operator Fund.**

22           (a) Establishment of Fund. The Equity Operator Fund ("the Fund") is established as  
23 a category six fund to receive any monies appropriated or donated for the purpose of assisting  
24 Cannabis Businesses that are owned or managed by individuals who meet the criteria for  
25 Equity Applicants set forth in Section 1604 of the Police Code, and Equity Applicants who

1 have been awarded a Cannabis Business Permit by the Office of Cannabis (“Equity  
2 Operators”).

3 (b) Use of Fund. The Fund shall be used exclusively by the Director of the Office of  
4 Cannabis or his or her designee (“Director”) to provide the following types of assistance to  
5 Equity Applicants and Equity Operators:

6 (1) Providing access to technical assistance, mentoring, and business  
7 consulting services;

8 (2) Financing capital improvements, construction, renovations, and leasehold  
9 improvements; and

10 (3) Providing access to legal services relating to the operation of the Cannabis  
11 Business.

12 (c) Disbursement. The Director shall authorize disbursements to eligible Equity  
13 Applicants and Equity Operators on a case-by-case basis in accordance with the policy  
14 adopted pursuant to subsection (d).

15 (d) Administration of Fund. By no later than April 1, 2018, the Director shall adopt a  
16 policy for implementation of this Section 10.100-162, which the Director may modify from time  
17 to time as the Director deems necessary or appropriate.

18 (e) Annual Report. The Director shall submit an annual written report to the Mayor,  
19 the Board of Supervisors, and the Controller within the first two weeks of July, showing for the  
20 prior fiscal year donations or appropriations received, the nature and amount of such  
21 donations or appropriations, and the disposition thereof, together with a description of the  
22 individual payments made from the Fund.

23  
24 Section 101. Effective Date. This ordinance shall become effective 30 days after  
25 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
2 of Supervisors overrides the Mayor's veto of the ordinance.

3  
4 Section 142. Scope of Ordinance. In enacting this ordinance, the Board of  
5 Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections,  
6 articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the  
7 Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board  
8 amendment additions, and Board amendment deletions in accordance with the "Note" that  
9 appears under the official title of the ordinance.

10  
11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13 By:   
14 Anne Pearson  
Deputy City Attorney

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**LEGISLATIVE DIGEST**

(Substituted, 10/24/17)

(Amended, 11/1/17)

(Amended 11/7/17)

[Various Codes - Regulation of Cannabis Businesses]

**Ordinance amending the Administrative, Business and Tax Regulations, Health, and Police Codes to comprehensively regulate commercial activities relating to the cultivation, manufacture, distribution, testing, sale, and delivery of medicinal and adult use cannabis by, among other things: 1) requiring businesses that engage in commercial cannabis activities to obtain a permit from the Office of Cannabis; 2) requiring the Director of the Office of Cannabis to implement an Equity Program to promote equitable ownership and employment opportunities in the cannabis industry by providing priority permitting for Equity Applicants and Equity Incubators, as defined; 3) defining eligibility for temporary and permanent cannabis business permits; 4) establishing priorities for the review of cannabis business permit applications; 5) establishing operating standards for cannabis businesses; 6) establishing criteria for granting, denying, suspending, and revoking cannabis business permits; 7) requiring all cannabis businesses to ensure that 50% of work hours are performed by San Francisco residents, and cannabis businesses with 10 or more employees to adopt labor peace agreements; 8) authorizing the imposition of fines and penalties for violation of local and state laws governing cannabis businesses, and establishing procedures by which cannabis businesses may appeal a fine or permit penalty; 9) allowing pre-existing non-conforming cannabis operators to register with the Office of Cannabis and apply for cannabis business permits in 2018; 10) prohibiting the consumption of cannabis and cannabis products on the premises of all cannabis businesses, except Storefront Cannabis Retailers and Cannabis Microbusinesses that obtain consumption permits from the Department of Public Health; 11) prohibiting until January 1, 2019, tours of cannabis cultivators, manufacturers, and cannabis microbusinesses, and authorizing the Director of Cannabis to extend the prohibition on tours, or establish guidelines for the operation of tours; 12) prohibiting the acceptance of new applications for medical cannabis dispensary permits, starting January 1, 2018; 13) allowing medical cannabis dispensaries to sell adult use cannabis, starting January 1, 2018, and prohibiting medical cannabis dispensaries from cultivating cannabis under the authority of a medical cannabis dispensary permit, starting April 1, 2018; 14) establishing a sunset date of December 31, 2018, for Article 33 of the Health Code (“Medical Cannabis Act”); 15) requiring the Department of Public Health to implement an ongoing public health education campaign about the safe consumption and health benefits of cannabis; 16) requiring the Controller to submit a report to the Board of Supervisors within one year of the effective date of Article 16 recommending whether the issuance of cannabis business permits should be subject to any limits; 17) establishing an Equity Operator Fund to receive any monies appropriated for the purpose of assisting Equity Operators; and 18) eliminating the duty of the Clerk of the Board of Supervisors to send letters annually to state and federal officials requesting**

**that cannabis be regulated and taxed; and affirming the Planning Department's determination under the California Environmental Quality Act.**

Existing Law

On October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation and Safety Act ("MMRSA"), effective January 1, 2016, which established a comprehensive state licensing and regulatory framework for the cultivation, manufacturing, testing, distribution, transportation, dispensing, and delivery of medicinal cannabis, and which recognized the authority of local jurisdictions to prohibit or impose additional restrictions on commercial activities relating to medicinal cannabis. MMRSA was later renamed the Medical Cannabis Regulation and Safety Act ("MCRSA").

On November 8, 2016, the voters of California approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA), which decriminalized the nonmedicinal use of cannabis by adults 21 years of age and older, created a state regulatory, licensing, and taxation system for non-medicinal cannabis businesses, and reduced penalties for marijuana-related crimes.

On June 27, 2017, Governor Brown signed into law the Medicinal and Adult-Use Cannabis Regulations and Safety Act (MAUCRSA), which reconciled MCRSA and Proposition 64, and established a unified state regulatory scheme for commercial activities relating to both medicinal and adult use cannabis. Under MAUCRSA, businesses that engage in commercial cannabis activities will be required to obtain a state cannabis license and comply with strict operating conditions. MAUCRSA requires that state agencies begin issuing state cannabis business licenses by January 1, 2018.

Under MAUCRSA, local jurisdictions may adopt and enforce ordinances to further regulate cannabis businesses, including but not limited to zoning and permitting requirements.

Article 33 of the San Francisco Health Code, adopted in 2005, regulates medical cannabis, and authorizes the San Francisco Department of Public Health to oversee the permitting of medical cannabis dispensaries. Medical cannabis dispensaries are cooperatives or collectives of ten or more qualified patients or caregivers that facilitate the lawful cultivation and distribution of cannabis for medical purposes. Medical cannabis dispensaries may not sell cannabis to individuals who are not members of the collective, and may not sell or cultivate non-medical cannabis.

Currently, there is no City law that authorizes and regulates commercial activities relating to non-medical cannabis. There is also no City law that authorizes and regulates the commercial manufacture, testing, or distribution of cannabis.

Article XXVI of the Administrative Code establishes an Office of Cannabis under the direction of the City Administrator, and authorizes the Director of the Office of Cannabis to issue permits to cannabis-related businesses, and to collect permit application and annual license

fees following the enactment of a subsequent ordinance establishing the amounts of those fees.

### Amendments to Current Law

The proposed ordinance would authorize and comprehensively regulate commercial activities relating to the cultivation, manufacture, distribution, testing, sale, and delivery of medicinal and adult use cannabis. The new regulatory scheme would complement and then replace Article 33 of the Health Code, which would sunset on December 31, 2018.

#### **1. The Equity Program and Fund.**

The ordinance requires the Director of the Office of Cannabis (“Director”) to implement an Equity Program designed to foster equitable access to participation in the cannabis industry, including equitable access to promotional and ownership opportunities in the industry. The Equity Program will offer priority permit processing and technical assistance to Equity Applicants who meet specified criteria relating to income, assets, residence in select San Francisco tracts, criminal history, and/or history of housing insecurity.

The Equity Program will also offer priority permitting to Equity Incubators, who are defined as cannabis businesses that do not qualify as Equity Applicants, but that commit to: 1) hiring local San Francisco residents and individuals who meet equity requirements, and 2) providing support to Equity Operators by offering them technical assistance or rent-free commercial space.

The ordinance would also establish an Equity Operator Fund to receive monies that are appropriated or donated for the purpose of assisting Equity Operators. The Director would be authorized to disburse funds to Equity Operators on a case-by-case basis, for the purpose of providing them with access to technical assistance, capital improvements and renovations, and access to legal services. The Director must adopt a policy governing such disbursements by no later than April 1, 2018.

#### **2. Permit Categories.**

Under the proposed ordinance, the Office of Cannabis would make available the following cannabis business permits:

- Cannabis Cultivation Facility;
- Cannabis Manufacturing Facility;
- Cannabis Testing Facility;
- Cannabis Distributor;
- Cannabis Microbusiness;
- Medicinal Cannabis Retailer;
- Cannabis Retailer; and

- Delivery-Only Cannabis Retailer.

Businesses that are awarded a local cannabis business permit would be required to apply for and receive a state cannabis license in order to operate. With the exception of Medicinal Cannabis Retailers, all other business permit categories would authorize permittees to engage in commercial activities relating to both medicinal and adult use cannabis, provided that the permittee applies for and receives state licenses authorizing those activities.

### **3. Transition Process for Permitted Medical Cannabis Dispensaries.**

Businesses that hold a medical cannabis dispensary ("MCD") permit issued by the Department of Public Health under the authority of Article 33 of the Health Code would be allowed to continue operating under the terms of that permit until they apply for and receive a new cannabis business permit from the Office of Cannabis, or until Article 33 sunsets on December 31, 2018, whichever occurs first. Permitted MCDs would also be allowed to sell adult use cannabis and adult use cannabis products, starting January 1, 2017. In order to engage in the retail sale of cannabis in 2018, MCDs would be required to apply for and obtain state cannabis licenses and apply for a local cannabis business permit, once the Office of Cannabis releases applications for those permits.

In addition, the proposed ordinance would amend Article 33 of the Health Code to provide that: 1) starting on January 1, 2018, the Department of Public Health will no longer accept applications for MCD permits; and 2) starting on April 1, 2018, MCDs will no longer be authorized by Article 33 to engage in the cultivation of cannabis. Businesses that have already applied for an MCD permit but that have not yet received a determination from the Department of Public Health would be able to continue the MCD permit application process.

### **4. Transition Process for Non-Retail Cannabis Businesses and Delivery-Only Cannabis Retailers.**

Businesses that intend to apply for any permit category other than a Medicinal Cannabis Retailer or a Cannabis Retailer (collectively, "Storefront Cannabis Retailers") would be required to register with the Office of Cannabis. The registration process would allow the Office of Cannabis to determine: how many businesses are interested in operating within the City; whether any existing businesses pose immediate threats to health or safety; and how the City may work with businesses to eliminate those threats. Businesses that complete the registration process would be allowed to apply for a temporary medicinal cannabis business permit, which may be awarded to applicants that demonstrate to the Office of Cannabis that they have been engaged in commercial cannabis activities, have undergone inspections, meet applicable interim health and safety standards, and have provided all information required by the Director. Temporary permits would authorize businesses to engage in commercial activities relating to medicinal cannabis only; temporary permits would not allow the permit holders to engage in activities relating to adult use cannabis.

## **5. Transition Process for Pre-Existing Non-Conforming Operators.**

Businesses that have been operating as cannabis businesses in San Francisco, but in a location that is not zoned to allow such a business (“Pre-Existing Non-Conforming Operators”) may register with the Office of Cannabis during the registration period, and may apply for a cannabis business permit in 2018, provided they find a location for their business that is consistent with the Planning Code, and meet all other eligibility criteria.

## **6. Applications for “Permanent” Permits.**

The proposed ordinance would allow businesses to apply for “permanent” cannabis business permits, which will authorize activities relating to both medicinal and adult use cannabis. In 2018, the only businesses that will be eligible to receive permanent cannabis business permits will be:

- Equity applicants and Equity Incubators;
- Permitted MCDs;
- Temporary Medicinal Cannabis Business permit holders;
- Businesses that were operating in compliance with the Compassionate Use Act of 1996 that were forced to discontinue operations as a result of federal prosecution or threat of prosecution;
- Businesses that applied for an MCD permit prior to September 26, 2017 that required referral to and approval by the Planning Commission; and
- Pre-Existing Non-Conforming Operators.

The Office of Cannabis will review and process applications for Cannabis Business Permits in an order that reflects the Applicant’s priority category:

- First priority: applications from Equity Applicants;
- Second priority: applications from Equity Incubators;
- Third priority: applications from Applicants, including Pre-Existing Non-Conforming Operators, that were operating in compliance with the Compassionate Use Act of 1996 before September 1, 2016;
- Fourth priority: applications that demonstrate a commitment on the part of the Applicant to provide benefits to the community in which the Cannabis Business is located, including but not limited to workforce opportunities and community benefits contributions; and
- Fifth priority: all other applications.

The proposed ordinance specifies the information that applicants will need to provide to the Office of Cannabis when applying for each type of license, and the eligibility criteria for each permit category.

## **7. Business Operating Standards.**

Among the operating standards are the following:

- Cannabis businesses may not permit entry onto their premises to persons who are underage, and must confirm that a Customer is not underage before selling cannabis or cannabis products.
- The consumption of cannabis and cannabis products will be prohibited on the premises of all cannabis businesses, except Medicinal Cannabis Retailers, Cannabis Retailers, and Cannabis Microbusinesses that receive and maintain a cannabis consumption permit from the Department of Public Health. There will be three types of consumption permits: one permit category will allow the consumption of pre-packaged cannabis products only; a second permit category will allow limited preparation of cannabis products; and a third permit category will allow onsite smoking and vaping of cannabis.
- In 2018, tours of cannabis businesses other than Storefront Cannabis Retailers will be prohibited. By January 1, 2019, the Director will determine whether to extend the prohibition on tours, or allow tours of Cannabis Manufacturing Facilities, Cannabis Cultivation Facilities, and Cannabis Microbusinesses, subject to limitations he or she may adopt by regulation.
- Permitted Cannabis Storefront Retailers will require express authorization from the Director to deliver cannabis and cannabis products to customers. Where deliveries are authorized, they must be made by employees of the permitted business using a commercial vehicle, and subject to strict reporting requirements.
- Cannabis Manufacturers will be prohibited from manufacturing non-cannabis products.
- All Cannabis Businesses must agree ensure that at least 50% of all work hours performed for the business are performed by San Francisco residents, and Cannabis Businesses with 10 or more employees must further agree to adopt a Labor Peace Agreement.

## **8. Miscellaneous.**

Permitted cannabis businesses that are found to have violated the proposed ordinance, its implementing regulations, or the conditions of a permit issued as a condition of operating a cannabis business, shall be subject to administrative penalties, civil penalties, permit suspensions, and permit revocations. Appeals of administrative penalties, permit suspensions and permit revocations may be made to a hearing officer. Appeals of all permitting decisions also may be made to the Board of Appeals.

The ordinance would require the Department of Public Health to implement an ongoing public health education campaign relating to the safe consumption and health benefits of cannabis.

Within one year of the effective date, the Controller's Office would be required to submit a report to the Board of Supervisors including recommendations about whether the issuance of cannabis business permits should be subject to any numerical, geographical, or other limits.

FILE NO. 171042

The ordinance would authorize the Director to adopt rules, regulations, or guidelines for the implementation of the ordinance.

#### Background Information

This legislative digest reflects revisions included in a substitute ordinance introduced on October 24, 2017, and amendments introduced in the Rules Committee on November 1, 2017 and November 7, 2017.

In 2015, the City enacted Ordinance No. 115-15, creating the San Francisco Cannabis State Legalization Task Force (“the Task Force”) to advise the Board of Supervisors, the Mayor, and other City departments on matters relating to the potential legalization of non-medical cannabis. In December 2016, the Task Force submitted its Year I Report, and made recommendations related to Public Safety and Social Environment, Land Use and Social Justice, and Regulation and City Agency Framework for the City’s policymakers to consider.

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SAN FRANCISCO  
**OFFICE OF SMALL BUSINESS**

CITY AND COUNTY OF SAN FRANCISCO  
EDWIN M. LEE, MAYOR

OFFICE OF SMALL BUSINESS  
REGINA DICK-ENDRIZZI, DIRECTOR

October 31, 2017

Ms. Angela Calvillo, Clerk of the Board  
City Hall Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

RE: BOS File No. 171042 [Various Codes - Regulation of Cannabis Businesses]

Small Business Commission Recommendation to the Board of Supervisors: **Approval, with ten (10) recommendations**

Dear Ms. Calvillo,

On October 23, 2017, the Small Business Commission (SBC) voted (6-0, 1 absent) to recommend that the Board of Supervisors approve BOS File No. 171042, with ten (10) recommendations:

- 1. Amend SECTION 1605(d): Separate the registration process into 2 steps (without requiring disclosure of an exact address in the first step) and provide a pathway for existing operators to move toward compliance without interrupting the flow of the supply chain.**

As proposed in the legislation, a business must register with the Office of Cannabis during the Cannabis Business Registration Period in order to be eligible for a temporary medicinal permit to operate in 2018. However, some businesses have not yet secured a properly zoned location, which prevents them from completing the registration as it is currently structured. The SBC recommends that the process be split into two steps.

Step 1: All existing businesses operating in San Francisco will have a means to register and provide proof of their existence in San Francisco on or before 9/26/17. This would satisfy the requirement under Section 1605(b). (Note: this mirrors Oakland's process, which allows applicants who have not yet secured a location to apply and obtain conditional approval. The location requirement is considered a barrier to entry.)

Step 2: Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance, without having to wait until the general applications in 2019.

Allow businesses a certain amount of time (not less than 6 months) to come into compliance. Some small businesses would be unable to afford operating expenses without revenue and may go out of business; therefore, a pathway that would allow them to continue operating as they work toward compliance would be optimal.

Furthermore, the reality is that much of the cannabis industry is comprised of small businesses (small growers, edibles/topicals/ light manufacturers, and delivery operators) that operate in

inappropriately zoned locations throughout the City. They are part of MCD collectives and are integral to the City's cannabis supply chains. Interrupting their operations would create complications in the current flow of products through the supply chain. Not allowing them to register or obtain a permit would encourage them to continue operating unlicensed and unpermitted.

Where possible under state law, allow "non-conforming" cottage operations. Some small businesses have relied on starting their business on a small scale at home, to establish themselves before signing an expensive lease agreement. Allowing cottage operations would also ease competition for a limited number of spaces with zoning designations such as PDR.

San Francisco should consider advocating for a change in policy at the state level to allow cottage production of cannabis food products.

**2. Allow small cannabis businesses to share spaces.**

Rent in the city is prohibitive for many small businesses, but sharing the cost of rent makes it feasible for some. This will be critical as businesses shift from residential to commercial spaces. Amendments include accommodations in the registration process, permitting process, and operating standards. Because of the state requirement that only one licensee may occupy the premises, the City will need to determine how to maintain distinct premises within a shared space.

**3. Amend SECTION 1620: Address issues with shortage of on-site consumption and smoking/vaporization options.**

The SBC expressed serious concern about the contradiction of allowing cannabis sales without providing avenues to legally consume or smoke/vape it. Commissioner Ortiz-Cartagena likened it to opening a lemonade stand and not providing cups.

Their concern relates to the shortage of legal places for "consumption" (eating, drinking, chewing, applying topically, or otherwise ingesting) as well as smoking and vaporization ("vaping"). The SBC recommended that the options for on-site consumption be expanded considerably if the City is to accommodate the many residents and tourists that are expected to use cannabis.

First, there are not enough spaces for consumption and smoking/vaping. The proposed ordinance only allows consumption at cannabis retailers, medicinal cannabis retailers, and microbusinesses, and a very small subset of these (8 retailers, to be exact) are allowed to have smoking/vaping on the premises. The 8 retailers, which are insufficient to handle the anticipated volume of consumers, would no longer be able to allow on-site smoking/vaping if they obtain adult use permits once they are available, leaving the City with zero on-site smoking/vaping locations. The logical result is that any cannabis user who prefers smoking/vaping over edibles will engage in such activity on sidewalks, in parks, in hotel rooms, in cars, etc.

Using tourism data from Colorado (a state in which adult use cannabis is legal) as a proxy for San Francisco tourists' interest in cannabis, staff developed a rough estimate of anticipated demand. A Colorado tourism study showed that 12 percent of tourists visited a cannabis retailer. According to SF Travel, there were 25.1 million visitors to San Francisco in 2016. Using the 12 percent figure from Colorado, we might estimate that just over a quarter-million tourists (251,000) will try to visit a cannabis retailer in San Francisco each month. Twelve percent is likely a

conservative figure. Add to this figure San Francisco residents, a greater proportion of whom use cannabis than in any other city in the country.

Second, the City should consider whether it wants to encourage an edibles-only on-site consumption model. Edibles are processed in the body very differently than inhalation is processed. An edible is metabolized by the liver, enters the blood stream, and is associated with a stronger effect. It releases more slowly so the effects also lasts longer, but does not kick in for some time after ingestion. Persons unfamiliar with the way edibles work in the body should receive guidance on the appropriate dose and on the timing for effects to be felt. The effects of smoked or vaporized cannabis are felt much more quickly by the user and also fade more quickly, thereby facilitating self-dosing with little guidance. They are not interchangeable; users should have both options.

- 4. Amend SECTION 1606(b)(5): Clarify the registration process for pipeline applicants that were left out of the process.**

The SBC thanks the legislative sponsors for addressing this recommendation in Section 1606(b)(5) of the substitute legislation that was introduced on October 24, 2017.

- 5. Amend SECTION 1618(0): Allow a cannabis retailer that holds an M-License to employ persons 18 and over (with a valid physician's recommendation).**

State law (BPC Section 26140) does not require M-licensees to employ persons 21 and over, but the proposed City law would require all employees to be at least 21 years of age. Amend the ordinance to allow M-licensees to employ persons 18-21 years of age.

- 6. Ensure that MCD ownership provisions are able to accommodate the transition from not-for-profit to for-profit business structures.**

Such businesses should not inadvertently violate Article 33 during the temporary permitting period under Article 16. This recommendation is not intended to provide a loophole for a transfer of ownership and operations to an entirely new set of individuals. (Suggestion: Amend Article 33 to strike the not-for-profit requirement under Section 3301(f).)

- 7. Include additional felony records beyond only cannabis-related offenses when equity criteria are developed in the future.**

- 8. Consider a distinction between topicals and edibles in the regulations.**

If possible under state law, allow for cottage production of topicals (and eventually edibles, if state law can be changed). Also consider a distinction between topicals and edibles in manufacturing and on-site consumption regulations.

- 9. Protect and preserve compassionate care programs in the new permitting process.**

The new regulations and process for integrating existing cannabis businesses should not inadvertently eliminate compassionate care programs that many patients rely upon.

**10. Specify a radius of no more than 600 ft.**

Retain the 600 ft. radius requirement regarding distance from a storefront retailer to an existing school, public or private, as proposed in the original draft of the legislation.

To illustrate the practical implications of a more restrictive radius, take the example of District 8. 84.4% of District 8 residents voted “yes” on Proposition 64. A 1,000 foot radius requirement (the current radius requirement under the MCD regulations) would prevent cannabis retail in nearly every part of District 8, including the Castro district. Expanding the radius to be more restrictive produces effects that are inconsistent with voter intent. As drafted, BOS File No. 171042 specifies a radius of 600 feet, which the SBC supports.

This recommendation is detailed further in the Small Business Commission’s response to BOS File No. 171041.

The Small Business Commissioners also discussed how to ensure that the equity program does not unintentionally leave out small businesses that are currently operating and that fit the equity business profile.

On a general note, the proposed policies are already fairly conservative, displaying more caution than the election results suggest is necessary. San Francisco had the highest percentage of voters in support of any county in the state of California, at 74% of voters. For the sake of comparison, the next highest percentages of “yes” votes were in Santa Cruz County (69.9%) and Marin County (69.6%). The table below shows the number of votes per district and the percentages of voters for (“yes”) and against (“no”) Proposition 64.

**Table 1: Proposition 64 Election Data (by district)**

<b>Supervisory District</b>	<b>Number of votes</b>	<b>Yes (%)</b>	<b>No (%)</b>
1	34,567	71.4%	28.6%
2	43,246	77.0%	23.0%
3	30,990	75.6%	24.4%
4	33,254	61.3%	38.7%
5	45,087	84.5%	15.5%
6	30,283	78.2%	21.8%
7	39,044	66.8%	33.2%
8	50,938	84.4%	15.6%
9	34,559	77.5%	22.5%
10	28,109	69.6%	30.4%
11	27,554	59.0%	41.0%
<b>All Districts</b>	<b>397,631</b>	<b>74.3%</b>	<b>25.7%</b>

In light of the very strong voter support for Proposition 64, amendments should move the legislation in a more progressive direction, rather than toward more conservative regulations or land use policies.

San Francisco has been a trailblazer in other policy areas. Considering the history of cannabis in the City, it should be a leader and innovator in developing progressive, common-sense cannabis policies. It should engage in thoughtful dialogue to develop policies that are rational and appropriate for their intended

objectives (for example, to prevent youth access to cannabis), rather than allowing antiquated and unsubstantiated fears about cannabis to dominate the policy-making process.

The SBC respectfully requests that you amend the legislation to reflect the recommendations above and approve promptly, remaining conscious of the timelines for the legislation to be effective on January 1, 2018 when the first licenses are to be issued.

Thank you for considering the Small Business Commission's comments. Please feel free to contact me should you have any questions.

Sincerely,



Regina Dick-Endrizzi  
Director, Office of Small Business

cc: Edwin M. Lee, Mayor  
Jeff Sheehy, Board of Supervisors  
Ahsha Safai, Board of Supervisors  
Sandra Fewer, Board of Supervisors  
Norman Yee, Board of Supervisors  
Nicole Elliott, Office of Cannabis  
Barbara Garcia, Department of Public Health  
Colleen Chawla, Department of Public Health  
John Rahaim, Planning Department  
Mawuli Tugbenyoh, Mayor's Office  
Francis Tsang, Mayor's Office  
Lisa Pagan, Office of Economic and Workforce Development  
Alisa Somera, Rules Committee

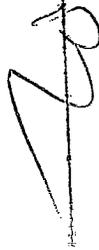
City & County of San Francisco

Cannabis Equity Report

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BY



**To the Mayor and Board of Supervisors:**

On behalf of the Office of Cannabis, the Human Rights Commission, and the Controller's Office we proudly present the enclosed "Cannabis Equity Report" to the Mayor and Board of Supervisors.

Our legislative mandate: produce a report analyzing available data related to disparities in the cannabis industry, and providing recommendations regarding policy options that could (A) foster equitable access to participation in the industry, including promotion of ownership and stable employment opportunities in the industry, (B) invest City tax revenues in economic infrastructure for communities that have historically been disenfranchised, (C) mitigate the adverse effects of drug enforcement policies that have disproportionately impacted those communities, and (D) prioritize individuals who have been previously arrested or convicted for marijuana-related offense.

We find that the War on Drugs had disastrous impacts on San Francisco. But with this sad history come opportunities to do something important and positive. As the City considers our regulatory structure for this emerging industry, we can do so thoughtfully and intentionally, by enacting policies that undo the racist practices of our past. This report includes a number of findings and recommendations to that end.

A successful program will ensure a more inclusive and diverse industry through ownership and workforce, an expansion of educational opportunities, an end to policies that burden communities that have been disproportionately impacted by the War on Drugs, and investment in communities that are disenfranchised because of the consequences of past drug policies.

This report is submitted with gratitude to the many contributors, including Office of the Controller, the Human Rights Commission Director and staff, Dr. William Armaline, Director of the Human Rights Program and an Associate Professor in the Department of Sociology and Interdisciplinary Social Sciences [SISS] at San José State University, Dr. Mike Males, Senior Research Fellow at the Center on Juvenile and Criminal Justice. The report was further advised by the work of the San Francisco Cannabis State Legalization Taskforce, Human Rights Commission staff convening of stakeholders, the feedback of experts and the community during the October 21, 2017 District 10 Cannabis Forum, the San Francisco Chapter of the California Growers Association, and numerous City departments.

We are grateful for your partnerships and look forward to working with you, San Francisco's policymakers, the community, and other impacted stakeholders as the City moves forward with development a thoughtful and impactful Cannabis Equity Program.

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## I. Executive Summary

The case for equity is clear. For decades, the War on Drugs has had consequential impacts on communities of color in San Francisco. The impacts of this disproportionality are acutely felt today: poverty, education gaps, and criminal records are the vestiges of explicitly and implicitly racist drug enforcement policies.

The City's challenge today is also our opportunity. As we move towards embracing a new industry, we must take the opportunity to harness its potential to begin to restore historic inequities. Some cities have already created industry-specific equity programs, but San Francisco should develop and implement a program that makes sense for the residents of our City, balancing our priorities and reflecting our values.

This report was drafted by the staff of the Office of Cannabis, Human Rights Commission, and Controller's Office, with assistance from numerous City and community partners. It examines the local, state and national history of cannabis regulation, the War on Drugs, and its impact on our communities. It reviews known characteristics of the City's existing cannabis industry and discusses barriers to entry into the industry. This report also looks at other jurisdictions' equity programs for lessons learned. Finally, the report makes recommendations meant to inform the creation of San Francisco's Cannabis Equity Program. Outlined below are key findings and highlights across the various sections within the report, and a summary of the final recommendations.

### Equity Analysis

- San Francisco has always been on the forefront of cannabis legalization.
- African Americans in San Francisco have endured disproportionately higher felony drug arrests and crackdowns.
- More recent decriminalization efforts helped to narrow those gaps, but people of color still interact with the justice system at a rate far higher than white San Franciscans.
- Significant social hurdles result from disproportionate arrest and incarceration rates.
- Although local data is incomplete at best and misleading at worst, it reveals a strong correlation between poverty and cannabis arrests.
- Taken together, this paints a troubling picture of the War on Drugs' impact on communities of color, even in a progressive city like San Francisco.
- Data suggests that San Francisco's cannabis industry (and the national industry) skews disproportionately white and male.

### Barriers to Entry

- Financial and real estate barriers present major equity hurdles to individuals seeking to enter the regulated cannabis industry.
- Other barriers include the soft skills of entrepreneurship, compliance, and legal complexity.
- While Prop. 64 clears the way for people convicted of cannabis crimes to enter the industry, a past criminal history can still present significant challenges, like accessing financing or signing a lease.
- Where the City allows cannabis businesses to operate will have important impacts on whether we can grow the industry equitably.

### Cannabis Equity Programs Analysis

- Oakland and Los Angeles both have real or proposed equity programs that may serve as a good model for San Francisco.
- Both cities aim to help people either arrested for cannabis or residents of high-enforcement neighborhoods, and offer a suite of fee waivers, technical assistance, and subsidized loans to equity applicants.
- Other cities and states also put in place policies to try to correct for historical imbalances.
- San Francisco should select the policy components that make the most sense for our city.

### Findings & Recommendations

The Office of Cannabis and supporting agencies chose to present a series of findings and recommendations to guide the Mayor and Board of Supervisors as they legislate an equity program. The following policy areas of focus represent this report's core recommendations:

1. **Eligibility:** inform eligibility criteria with data, set tiered eligibility criteria to allow most affected groups to receive higher-value benefits, while extending some benefits to a wider range of applicants impacted by the War on Drugs.
2. **Permitting:** prioritize and assist Equity Applicants during the permitting process, and establish an incubator program to incentivize partnerships between Equity Applicants and other cannabis operators.
3. **Community Reinvestment:** direct new potential funding from local cannabis taxes or the state toward programming for communities impacted by the War on Drugs. Businesses should also be required to describe how their business will provide community benefits.
4. **Workforce Development:** promote equitable employment opportunities at all cannabis businesses, especially for formerly-incarcerated individuals and those living in neighborhoods impacted by the War on Drugs. Expand First Source and Local Hire to cover the cannabis industry.
5. **Financial & Capital Access:** take an active advocacy role to open up banking services, particularly through state and local credit unions, for the cannabis industry.
6. **Technical Assistance:** direct Equity Operators to existing technical assistance resources in the City, and create new technical resources within the Office of Cannabis. Facilitate partnerships with other existing Operators and non-profits to help overcome technical barriers.
7. **Criminal History:** hold streamlined expungement events for citizens convicted of eligible cannabis offenses.
8. **Stakeholder Engagement:** create culturally sensitive and district-specific outreach, and extend Task Force membership to include representatives from communities with high concentrations of individuals eligible for Equity status.
9. **Public Awareness & Education:** deploy an outreach campaign for the Equity Program.
10. **Data Collection & Accountability:** gather data on General and Equity Applicants on a regular basis to analyze the outcomes of the Equity Program, and use this data to refine the program. Enforce compliance of commitments made by applicants.
11. **Modification & Course Correction:** permitting in phases and communicating with stakeholder groups will allow for steady improvement of the regulatory structure.
12. **Land Use & Zoning:** create land use controls that mitigate overconcentration in disenfranchised neighborhoods.

## II. Introduction

Mayor Lee has designated San Francisco's vision to be a safe, vibrant city of shared prosperity. Guided by the Human Rights Commission, the City incorporates strategies and programs that address the challenges resulting from prejudice, intolerance, bigotry, and discrimination. The City undertakes these challenges with the knowledge that the cumulative impact of systemic discrimination has depressed prosperity for us collectively.

In 1964, the stroke of a pen ended legal discrimination in the United States. However, as our country and our city has learned, the deletion of explicitly racist words, amendments to explicitly racist laws, and the terming out of explicitly racist policymakers were insufficient to address centuries of racialized outcomes. In the United States and in San Francisco, the legacy of those discriminatory laws remains: communities of color are still disproportionately incarcerated, unemployed, and impoverished.

The San Francisco Human Rights Commission has developed an equity framework, known as Engineering for Equity, for all City and County of San Francisco departments, including the Office of Cannabis, to provide the tools and strategies essential to making our government services more equitable for all. The equity framework helps city departments create and uphold transformational systems and approach actual and/or perceived limitations with innovation. It reflects the belief that city government can support resilient people and, in partnership with communities, can help develop foundations that uplift all.

This framework builds on shared definitions, developed in the interest of creating alignment across City departments working to ensure that all people are seen and heard fairly. Accordingly, this report adopts the Human Rights Commission's definitions for equity and community:

- **Equity:** Full and equal access to opportunities, power and resources, whereby all people may thrive and prosper regardless of demographics.
- **Community:** Stakeholders across San Francisco's diverse neighborhoods who are either benefited or burdened by public policies.

The legalization of adult-use cannabis presents an urgent opportunity to learn from the past and create accountable mechanisms to achieve shared prosperity. In anticipation of this, on September 5, 2017, the Board of Supervisors unanimously passed Ordinance No. 170859, creating the Office of Cannabis and requesting that the Office of Cannabis, the Human Rights Commission, and the Controller's Office deliver to them and the Mayor no later than November 1, 2017, a report analyzing available data related to disparities in the cannabis industry, and providing recommendations regarding policy options that could (A) foster equitable access to participation in the industry, including promotion of ownership and stable employment opportunities in the industry; (B) invest City tax revenues in economic infrastructure for communities that have historically been disenfranchised, (C) mitigate the adverse effects of drug enforcement policies that have disproportionately impacted those communities, and (D) prioritize individuals who have been previously arrested or convicted for marijuana-related offense.

As detailed in this report, the War on Drugs, has had disastrous impacts in San Francisco. In this city and in cities across the nation, these effects, including the creation of generational poverty, loss of property, community degradation, and loss of educational and employment opportunities, have been disproportionately shouldered by the poor and people of color, specifically African American and Latinx populations.

If the City is serious about improving the quality of life in San Francisco and helping those who have been disproportionately burdened by public policies like the War on Drugs, it must address systemic

barriers and understand the role that policies, practices, and procedures play in creating the current health, safety, economic mobility and community environment circumstances. We must remember the part these factors play in developing an equitable, inclusive and diverse city.

San Francisco is currently considering a proposed regulatory structure for local commercial cannabis activity beginning in 2018. The Commercial Cannabis Regulations Ordinance contemplates the creation of an Equity Program and makes clear that applications for adult-use commercial cannabis activity will not be made available until the City establishes a program designed to foster equitable access to participation in the cannabis industry, including access to workforce and ownership opportunities.

It is our hope that this report and its recommendations help inform the development of a robust equity program that ensures a cohesive, results-oriented strategy. A successful program will strengthen equitable access to the cannabis industry workforce, encourage entrepreneurship, and expand educational opportunities. It will help eliminate discriminatory institutional and structural policies and practices and strive to curtail the stigma against activities now legal under Proposition 64. This will require relevant departments to consider the impact of their services and develop transformational approaches that cut across multiple institutions, to disrupt institutional culture, and shift values and political will to create equity.

### III. Equity Analysis

#### Methodology

This Equity Analysis section first examines the history of drug enforcement policies in the United States and in California, which informs this overall equity analysis. This section also examines arrest rates in San Francisco, starting with a broad view of all drug arrests and narrowing to cannabis arrests. It uses census data and arrests data to highlight which populations in San Francisco have experienced disproportionate levels of cannabis arrests. From there, it defines the size and scope of low-income communities in San Francisco, and geospatially cross-references cannabis arrests with low-income census tracts. The overlap provides some insight into the correlation between cannabis law enforcement and income status, highlighting which local communities have likely been economically disadvantaged by cannabis law enforcement. Finally, this analysis looks into the demographics of the existing legal cannabis industry, from a national perspective and a local one, exhibiting which populations have begun to economically benefit from gradual cannabis decriminalization.

#### Historical & Legislative Context of Cannabis Policies

##### *United States Drug and Cannabis Policy*

Food and drug regulation began in the United States with the Federal Food and Drug Act of 1906. The law permitted the U.S. Department of Agriculture's Bureau of Chemistry to test, regulate, and standardize commercial substances.<sup>1</sup> Between 1906 and 1942, the federal government primarily regulated narcotics through taxation, with the exception of opium and cocaine. The Opium Exclusion Act of 1909 limited opium imports, partially over legitimate concerns regarding the drug's level of addiction and health effects. However, its passage was contemporaneously supported by xenophobic fears of East Asian immigrants, foreshadowing the federal government's racialization of drug policy throughout much of the 20<sup>th</sup> century.<sup>2</sup> The Harrison Act of 1914 created a prescription registry and imposed a special tax on narcotics imports.

In 1927, Congress reorganized the drug regulatory structure by establishing the Food, Drug, and Insecticide Administration, which was shortened to the Food and Drug Administration in 1930. 1930 brought further administrative and bureaucratic changes, including the transfer of powers from existing agencies to the newly created Bureau of Narcotics.<sup>3</sup> The Bureau of Narcotics was given broad jurisdiction over controlling narcotics, and its first commissioner, Harry J. Anslinger, pushed cannabis regulations further towards criminalization and as an outlet for discrimination and marginalization.<sup>4</sup>

Throughout his tenure as Narcotics Commissioner, Anslinger gave speeches across the United States, portraying cannabis as, "a scourge on society, ruining the moral fabric of America..."<sup>5</sup> Anslinger often implicated Mexicans, Mexican-Americans, and African Americans as drug users, even stating explicitly that Mexico was responsible for introducing cannabis to the United States.<sup>6</sup> In *Marijuana: A Short History*, John Hudak connects the racialization of cannabis policy to wider geopolitical events at the time. After the

<sup>1</sup> Hudak, John. *Marijuana: A Short History*. Washington, D.C.: Brookings Institution Press, 2016, 32.

<sup>2</sup> *Ibid.*, 34.

<sup>3</sup> *Ibid.*, 35.

<sup>4</sup> *Ibid.*, 35-36.

<sup>5</sup> *Ibid.*, 36.

<sup>6</sup> Anslinger, Harry. *Marijuana, Assassin of Youth*. *The American Magazine*, 124, no. 1 (1937).

Mexican-American War (1846-1848) and continuing into the early 20th century, America received an influx of Mexican immigrants, which further exacerbated existing racial tensions. Hudak writes, "As Americans sought a pretext to vilify this new immigrant community, they found an ideal culprit in marijuana...fear and anti-immigrant sentiment prompted state-level bans on cannabis..."<sup>7</sup>

Anslinger conducted public opinion campaigns to support the criminalization of cannabis at the state and federal levels. By the time Congress passed the Uniform State Narcotic Act in 1932, urging states to unify narcotics laws and implement criminal punishments, 29 states had already criminalized the use of cannabis.<sup>8</sup> The Marihuana Tax Act of 1937 levied a tax on every group involved with producing, distributing, selling and purchasing cannabis, including importers, growers, sellers, prescribers, physicians, veterinarians, patients, and other consumers. Failing to pay any of these taxes resulted in heavy fines and jail time.<sup>9</sup>

Despite facing some objections against implementing harsh punishments for cannabis offenses, Anslinger and Congress continued to criminalize cannabis in stricter terms.<sup>10</sup> The Boggs Act of 1951 created mandatory minimum sentences for those convicted of drug-related offenses. These sentences were soon increased with the Narcotics Control Act of 1956.<sup>11</sup>

The counterculture movements of the 1960s pushed back against social norms and government actions and policies that were perceived as unjust.<sup>12</sup> Cannabis took on a visible role within some of these countercultures, as well as within the music industry and media. Cannabis use increased among American youth, and the United States government, perceiving itself as under siege, responded again with increased criminalization.<sup>13</sup>

Presidential administrations from the 1950s onward frequently pushed the criminalization of cannabis alongside urgent social narratives. President Eisenhower's Interdepartmental Committee on Narcotics published a report in 1956 that detailed the harms of cannabis on youth and communities, without scientifically evaluating the impacts of cannabis usage.<sup>14</sup> One exception was President Kennedy's Advisory Committee on Narcotic and Drug Abuse, established with Executive Order 11076 in 1963, which found that drugs were not grouped together legally based on the risk of addiction or level of health effects, and even stated that mandatory minimums should be reconsidered.<sup>15</sup> However, Kennedy was assassinated shortly thereafter, and his successor, President Johnson, did not take action on many of the Committee's findings.

Despite this, Lyndon B. Johnson had a relatively nuanced stance on drug usage, distinguishing between dealers and users and recognizing the public health and safety need for treatment. However, Richard Nixon's election in 1968 redirected the government's focus back to criminalization and punishment.<sup>16</sup> After Congress passed the Controlled Substances Act in 1970, President Nixon formally declared a "War

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<sup>7</sup> Hudak, John. *Marijuana: A Short History*, 38.

<sup>8</sup> *Ibid.*, 37.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*, 38-39.

<sup>11</sup> *Ibid.*, 39.

<sup>12</sup> *Ibid.*, 41-42.

<sup>13</sup> *Ibid.*, 42.

<sup>14</sup> *Ibid.*, 43-44.

<sup>15</sup> *Ibid.*, 46.

<sup>16</sup> *Ibid.*, 48.

on Drugs".<sup>17</sup> Nixon, however, had been focused on this war for years, as a part of his "Southern Strategy," which sought to marginalize vulnerable populations, especially minorities.<sup>18</sup> In fact, Nixon's adviser, John Ehrlichman, was recorded in a 1981 interview with Lee Atwater, saying:

*We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.<sup>19</sup>*

The events and actions that led to Nixon's formal War on Drugs proclamation include a 1969 speech to Congress, in which Nixon declared cannabis a national threat; the Supreme Court case *Leary v. United States*; Operation Intercept, a military operation that seized contraband at the U.S.-Mexico border; and the 1969 Bipartisanship Leadership Meeting on Narcotics and Dangerous Drugs.<sup>20</sup>

The 1970 Controlled Substances Act is crucial because it formalized drug schedules, which categorized drugs into legal groups for sentencing and other purposes.<sup>21</sup> However, Congress, not the scientific or medical community, sorted drugs into schedules, placing cannabis in Schedule I alongside drugs with much higher levels of addiction and health effects.<sup>22</sup> The law expanded the government's powers for regulating drugs and gave Nixon the foundation for his upcoming War on Drugs.<sup>23</sup> Nixon's final substantial action in the War on Drugs was his proposal to Congress to reorganize the government agencies that regulate drugs and narcotics, the "Reorganization Plan 2 of 1973".<sup>24</sup> Congress approved and the Drug Enforcement Administration (DEA) was created within the Department of Justice. The DEA consolidated functions and jurisdictions and has consistently received significant increases in funding and employees since its creation.<sup>25</sup>

President Ford continued Nixon's tough rhetoric, expanding the United States' involvement in drug operations internationally. At the same time, Ford supported treatment and prevention, later revealing that drug addiction was a personal issue to his family. Like President Ford before him, Carter worked to stem international drug trafficking while attempting to reform aspects of drug policy at home. In his 1977 "Drug Abuse Message to the Congress," Carter laid out his vision to increase funding for research, create

17 Nixon, Richard. "Special Message to the Congress on Drug Abuse Prevention and Control, June 17, 1971." The American Presidency Project. Accessed October 30, 2017. <http://www.presidency.ucsb.edu/ws/?pid=3048>.

18 Hudak, John. *Marijuana: A Short History*, 50.

19 13th. Directed by A. DuVernay. Produced by H. Barish and S. Averick. United States: Netflix, 2016.

20 Hudak, John. *Marijuana: A Short History*, 51-52; Nixon, Richard. "Special Message to the Congress on the Control of Narcotics and Dangerous Drugs, July 14, 1969." The American Presidency Project. Accessed October 30, 2017. <http://www.presidency.ucsb.edu/ws/?pid=2126>.

21 The Diversion Control Division. "Title 21 United States Code (USC) Controlled Substances Act." U.S. Department of Justice. Accessed October 30, 2017. <https://www.deadiversion.usdoj.gov/21cfr/21usc/811.htm>.

22 Hudak, John. *Marijuana: A Short History*, 54.

23 *Ibid.*, 55.

24 Nixon, Richard. "Message to the Congress Transmitting Reorganization Plan 2 of 1973: Establishing the Drug Enforcement Administration, March 28, 1973." The American Presidency Project. Accessed October 30, 2017. <http://www.presidency.ucsb.edu/ws/index.php?pid=4159>.

25 The Drug Enforcement Agency. "DEA Staffing & Budget." DEA.gov. Accessed October 30, 2017. <https://www.dea.gov/pr/staffing.shtml>.

federal prevention and treatment programs, and shift the government's regulatory focus to drugs with more severe health consequences. Carter's proposals were never realized.<sup>26</sup>

Like Nixon, Reagan incorporated drug policy into his broader political strategy. He continued to expand the United States' drug involvement efforts internationally while enhancing penalties and reducing defenses for the accused domestically.<sup>27</sup> Finally, Reagan expanded education and treatment programs, enlisting the help of First Lady Nancy Reagan. With Executive Order No. 12368, Reagan created the Drug Abuse Policy Office.<sup>28</sup> The Office quickly won a series of legislative successes, including the Comprehensive Crime Control Act of 1984, the Anti-Drug Abuse Act of 1986, and the Anti-Drug Abuse Act of 1988.<sup>29</sup> All of these laws enhanced criminal punishments for drug-related offenses. The 1986 law expanded the crimes to which mandatory minimums applied, and the 1988 law enhanced these minimums.<sup>30</sup> In 1989, President H.W. Bush created the Office of National Drug Control Policy, replacing Reagan's Drug Abuse Policy Office. The director of this office is referred to as the "Drug Czar", whose influence in U.S. drug policy continues to this day.<sup>31</sup>

The 1988 law also increased funding for education programs, and redirected funds in other programs towards drug-related programs. Researchers have evaluated the effectiveness of drug education programs, and found limited, if any, effects on curbing drug use among American youth.<sup>32</sup>

President Bill Clinton incorporated kinder rhetoric when speaking about drug use, although his policies continued to intensify criminal punishments for cannabis.<sup>33</sup> For instance, the Violent Crime Control and Law Enforcement Act of 1994 intensified criminalization, introducing the "three strikes" provision for traffickers, and increased funding for prisons and local law enforcement.<sup>34</sup> After the 1994 law, arrests for cannabis users increased significantly. In 1991, there were around 327,000 arrests for cannabis-related offenses. By 2000, there were over 700,000.<sup>35</sup> Meanwhile, states began legalizing medical cannabis; some states authorized medical cannabis on the day Clinton was reelected to office.<sup>36</sup>

Public opinion about cannabis reversed became increasingly positive in the 1990s and 2000s,<sup>37</sup> a trend that has continued to the present. In 2000, 31% of Americans supported the legalization of cannabis. By

26 John Hudak. *Marijuana: A Short History*, 67-70; Carter, Jimmy. "Drug Abuse Message to the Congress, August 2, 1977." The American Presidency Project. Accessed October 30, 2017.

<http://www.presidency.ucsb.edu/ws/?pid=7908>:

27 Hudak, John. *Marijuana: A Short History*, 73.

28 Reagan, Ronald. "Executive Order 12368: Drug Abuse Policy Functions, June 24, 1982." The American Presidency Project. Accessed October 30, 2017. <http://www.presidency.ucsb.edu/ws/index.php?pid=42672>.

29 Hudak, John. *Marijuana: A Short History*, 76.

30 *Ibid.*

31 *Ibid.*

32 Engs, Ruth C., and Fors, Stuart W. "Drug Abuse Hysteria: The Challenge of Keeping Perspective." *Journal of School Health* 58, no. 1 (1988): 26-28.

33 Hudak, John. *Marijuana: A Short History*, 81-82.

34 *Ibid.*, 82-83.

35 King, R., and M. Mauer. "The War on Marijuana: The Transformation of the War on Drugs in the 1990's." *The Harm Reduction Journal* 3, no. 6 (2006).

36 Hudak, John. *Marijuana: A Short History*, 83.

37 Pew Research Center. "In Debate over Legalizing Marijuana, Disagreement over Drug's Dangers." Accessed October 29, 2017. <http://www.people-press.org/2015/04/14/in-debate-over-legalizing-marijuana-disagreement-over-drugs-dangers/2/>.

2013, nearly 58% of those polled supported legalization.<sup>38</sup> Much of this shift in public opinion is attributed to generational acceptance and an increase in the number of individuals who have tried or used cannabis.<sup>39</sup>

While campaigning for President, George W. Bush conveyed his support for allowing states to determine their own cannabis policies. During a campaign event in Seattle, Bush stated, "I believe each state can choose that decision as they so choose."<sup>40</sup> Despite this initial stance, President Bush's drug policies closely resembled those of his predecessors, focusing on international trafficking, law enforcement and treatment.<sup>41</sup> What's more, the Bush Administration frequently conducted raids on medical cannabis dispensaries, including dispensaries that functioned legally under state law.<sup>42</sup>

President Obama voiced support for the concept of medical cannabis, and promised a Justice Department Policy that would allow dispensaries to operate unimpeded. In a formal memo to United States Attorneys in 2009, Attorney General Holder wrote that the Obama Administration would end raids on cannabis distributors. It states that "...the prosecution of significant traffickers of illegal drugs, including marijuana...continues to be a core priority...pursuit of these priorities should not focus federal resources in your states on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana."<sup>43</sup> Holder did, however, oppose adult-use cannabis. His position became public in response to a 2010 California ballot initiative, which would have legalized adult-use cannabis in California, but failed to win a majority vote<sup>44</sup>

Then, in 2011, the Justice Department announced a crackdown on medical cannabis dispensaries across the United States. In a memo released on June 29, 2011, Deputy Attorney General James Cole communicated that the Justice Department would prosecute persons involved in producing, distributing, and selling cannabis, "regardless of state law."<sup>45</sup> Shortly afterwards, California's four U.S. Attorneys proceeded to announce criminal charges against cannabis dispensaries and threaten landlords with property seizure (See "California Cannabis Policy," below).

Like George W. Bush before him, Donald Trump vowed to leave medical cannabis policy to individual states while campaigning. As President, however, Trump nominated then-Senator Jeff Sessions for

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38 Swift, Art. "For the First Time, Americans Favor Legalizing Marijuana." Gallup. Accessed October 30, 2017. <http://news.gallup.com/poll/165539/first-time-americans-favor-legalizing-marijuana.aspx>.

39 Hudak, John. Marijuana: A Short History, 91-92.

40 Hsu, Spencer. "Bush: Marijuana Laws Up to States; But GOP Candidate Says Congress Can Block D.C. Measure." The Washington Post, October 22, 1999. Accessed October 30, 2017. <http://news.gallup.com/poll/165539/first-time-americans-favor-legalizing-marijuana.aspx>.

41 Marquis, Christopher. "Bush's \$19 Billion Antidrug Plan Focuses on Law Enforcement and Treatment." The New York Times, February 13, 2002. Accessed October 30, 2017. <http://www.nytimes.com/2002/02/13/us/bush-s-19-billion-antidrug-plan-focuses-on-law-enforcement-and-treatment.html?ref=topics>.

42 Johnston, David and Lewis, Neil. "Obama Administration to Stop Raids on Medical Marijuana Dispenseries." The New York Times, March 18, 2009. Accessed October 30, 2017.

<http://www.nytimes.com/2009/03/19/us/19holder.html>; Taylor, Stuart. "Marijuana Policy and Presidential Leadership: How to Avoid a Federal-State Train Wreck." The Brookings Institution, April 11, 2013. Accessed October 30, 2017. <https://www.brookings.edu/research/marijuana-policy-and-presidential-leadership-how-to-avoid-a-federal-state-train-wreck/>.

43 Taylor, Stuart. "Marijuana Policy and Presidential Leadership: How to Avoid a Federal-State Train Wreck," 20.

44 Ibid., 21.

45 Ibid., 22.

Attorney General of the United States,<sup>46</sup> an opponent of medical cannabis and any effort to decriminalize cannabis or to reduce criminal punishments. At a Senate drug hearing in April 2016, Sessions stated:

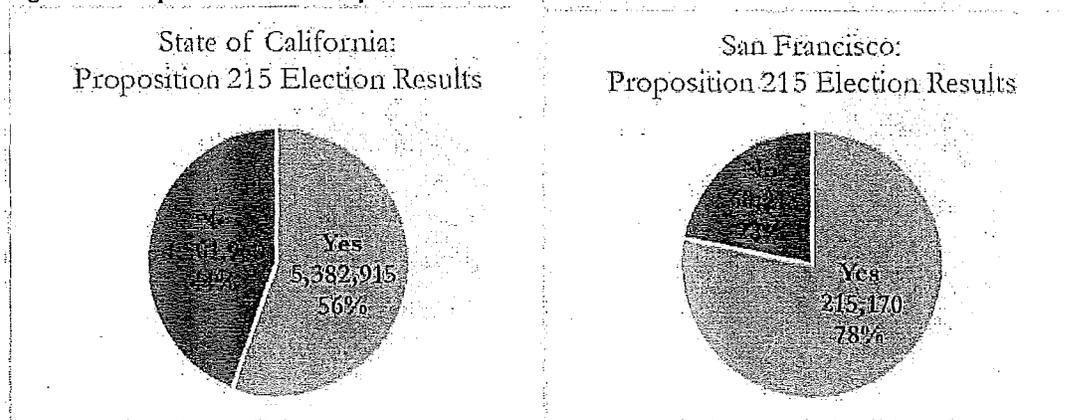
...we need grown-ups in charge in Washington to say marijuana is not the kind of thing that ought to be legalized, it ought not to be minimized, that it's in fact a very real danger...this drug is dangerous, you cannot play with it, it is not funny, it's not something to laugh about...and to send that message with clarity that good people don't smoke marijuana.<sup>47</sup>

Attorney General Sessions' stance on cannabis is reminiscent of Anslinger's statements, which rejected cannabis on moral grounds without acknowledging its similarities to legal substances such as tobacco and alcohol.

### *California Cannabis Policy*

In 1996, California passed Proposition 215, the Compassionate Use Act, with 56% of the votes statewide, and 78% in San Francisco as illustrated in Figure 1 below.

**Figure 1. Proposition 215: Comparison of California and San Francisco Election Results**



In doing so, California became the first state in America to legalize cannabis for medical use. The Compassionate Care Act allowed patients and qualified caregivers to cultivate and possess cannabis for personal use, however it did not provide a regulatory structure.<sup>48</sup> To clarify the Compassionate Use Act, the State Legislature passed Senate Bill 420 in 2003. This bill also provided for the creation of an identification program for qualified patients.<sup>49</sup>

In addition to legalizing medical cannabis, California voters propelled the state's drug policy away from criminalization and harsh punishments. In 2000, voters approved the Substance Abuse and Crime

46 Ingraham, Christopher. "Trump's Pick for Attorney General: 'Good People Don't Smoke Marijuana'" The Washington Post, November 18, 2016. Accessed October 30, 2017. [https://www.washingtonpost.com/news/wonk/wp/2016/11/18/trumps-pick-for-attorney-general-good-people-dont-smoke-marijuana/?utm\\_term=.854263e133ee](https://www.washingtonpost.com/news/wonk/wp/2016/11/18/trumps-pick-for-attorney-general-good-people-dont-smoke-marijuana/?utm_term=.854263e133ee).

47Ibid.

48 "Uniform Controlled Substances Act." California Legislative Information. Accessed October 28, 2017. [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=11362.5.&lawCode=HSC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11362.5.&lawCode=HSC).

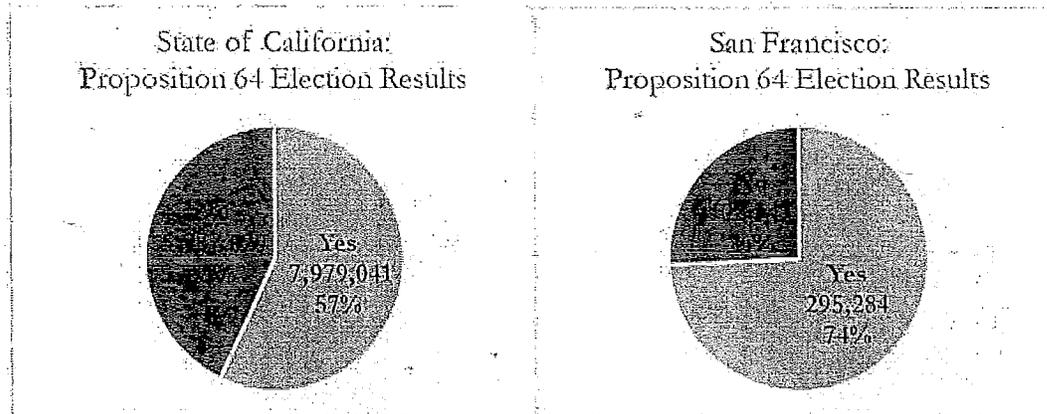
49 "Bill Number: SB 420, Bill Text." California Legislative Information. Accessed October 28, 2017. [ftp://www.leginfo.ca.gov/pub/03-04/bill/sen/sb\\_0401-0450/sb\\_420\\_bill\\_20031012\\_chaptered.html](ftp://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0401-0450/sb_420_bill_20031012_chaptered.html).

Prevention Act, directing the state to offer eligible offenders treatment rather than jail-time for drug possession and drug use.<sup>50</sup>

Between 2003 and 2015, the commercial cannabis industry grew with few rules and regulations. It wasn't until 2015 and the passage of the Medical Marijuana Regulation and Safety Act that California established a legal framework to regulate and monitor cannabis dispensaries.<sup>51</sup> Originally set to take effect on January 1, 2016, the Medical Marijuana Regulation and Safety Act was amended via the Medical Cannabis Regulation and Safety Act in June 2016. This updated piece of legislation aimed to incorporate stronger environmental protection policies within a comprehensive licensing system.<sup>52</sup>

On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act, legalizing the distribution, sale, and possession of cannabis.<sup>53</sup> Proposition 64 passed with 57% of the vote statewide and 74% of the vote in San Francisco, as illustrated in Figure 2 below.

**Figure 2. Proposition 64: Comparison of California and San Francisco Election Results**



The Adult Use of Marijuana Act (AUMA) of 2016 was modeled on the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015. In 2017 California sought to create one regulatory system for both medical and adult-use use. Therefore, this last June, Governor Jerry Brown signed the Medicinal and Adult Use Cannabis Regulation and Safety Act into law, reconciling the differences between AUMA and MMRSA, and taking a crucial step towards developing a regulatory framework to facilitate a legal, for-profit cannabis sector for both medicinal and adult-use.<sup>54</sup>

50 "The Substance Abuse & Crime Prevention Act of 2000." County of Santa Clara's Public Defender Office, March 13, 2013. Accessed October 28, 2017. <https://www.sccgov.org/sites/pdo/Pages/SACPA.aspx>.

51 "AB-243, Medical Marijuana." California Legislative Information. Accessed October 30, 2017. [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB243](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB243).

52 "SB-643, Medical Marijuana." California Legislative Information. Accessed October 29, 2017. [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB643](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB643).

53 "AB-64, Cannabis: Licensure and Regulation." California Legislative Information. Accessed October 29, 2017. [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB64](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB64).

54 "SB-94 Cannabis: Medicinal and Adult Use." California Legislative Information. Accessed October 30, 2017. [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB94](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB94); "State and Local Cannabis regulations under the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA)." The Sonoma County Bar Association. Accessed October 30, 2017. <http://www.sonomacountybar.org/wp-content/uploads/2017/09/12-12-17-Cannabis-Regulation-Safety-Act.pdf>.

### *San Francisco Cannabis Policy*

Prior to the passage of the statewide Compassionate Use Act, San Francisco voters passed Proposition P, Hemp Medication, in 1991. The proposition asked whether San Francisco would recommend that the State of California and the California Medical Association restore "hemp medical preparations" to California's official list of medicines.<sup>55</sup> There were three paid arguments on the ballot in favor of Proposition P, which provided quotes from physicians and cited scientific institutions in arguing for cannabis' medical benefits.<sup>56</sup> Voters approved the proposition with nearly 80% of the vote.<sup>57</sup>

In 1999, San Francisco's Health Commission adopted Resolution No. 29-99, "Supporting the Development and Implementation of a Voluntary Medical Cannabis Identification Card Program."<sup>58</sup> This resolution supported the development of an identification card program for medical cannabis for individuals who qualified under the Compassionate Use Act as patients or primary caregivers. In 2000, the Board of Supervisors formally created San Francisco's current identification program for medical cannabis.<sup>59</sup>

In 2002, the Board of Supervisors placed Proposition S, titled "Medical Marijuana," on the ballot. The proposition was a declaration of policy, directing the Mayor, Board of Supervisors, District Attorney, City Attorney, and Department of Public Health to explore the possibility of creating a program to grow and distribute medical marijuana.<sup>60</sup> Proposition S passed with approximately 62% of the vote.<sup>61</sup>

In March 2005, the Board of Supervisors passed Ordinance No. 64-05, "Zoning – Interim Moratorium on Medical Cannabis Dispensaries."<sup>62</sup> The ordinance expressed concern over the significant increase in the number of individuals enrolled in the city's voluntary medical cannabis identification program, stating "In 2002, there were approximately 2,200 individuals registered...and there are now over 5,000 or 7,000 individuals enrolled."<sup>63</sup> The ordinance acknowledged that there were no mechanisms to regulate or monitor medical cannabis dispensaries and therefore imposed a moratorium on new medical clubs and dispensaries. On November 22, 2005, the Board of Supervisors unanimously passed Article 33 of the San

<sup>55</sup> Office of the Registrar of Voters. San Francisco Voter Information Pamphlet and Sample Ballot. PDF. The San Francisco Public Library, 1991. Accessed October 29, 2017.

[https://sfpl.org/pdf/main/gic/elections/November5\\_1991short.pdf](https://sfpl.org/pdf/main/gic/elections/November5_1991short.pdf).

<sup>56</sup> *Ibid.*, 146.

<sup>57</sup> "San Francisco Ballot Propositions Database." The San Francisco Public Library. Accessed October 29, 2017.

<https://sfpl.org/index.php?pg=2000027201&PropTitle=&Description=&PropLetter=p&Month=&Year=1991&submit=Search>.

<sup>58</sup> The San Francisco Health Commission. Minutes of the Health Commission Meeting. The San Francisco Department of Public Health, 2000. Accessed October 29, 2017.

<https://www.sfdph.org/dph/files/hc/HCMins/HCMIn2000/HCMIn07182000.htm>.

<sup>59</sup> *Ibid.*

<sup>60</sup> The Department of Elections. Voter Guide: November 5, 2002. PDF. The City and County of San Francisco, 2002. [https://sfpl.org/pdf/main/gic/elections/November5\\_2002.pdf](https://sfpl.org/pdf/main/gic/elections/November5_2002.pdf).

<sup>61</sup> "San Francisco Ballot Propositions Database." The San Francisco Public Library.

<sup>62</sup> The San Francisco Board of Supervisors. Ordinance No. 64-05: Zoning - Interim Moratorium on Medical Cannabis Dispensaries. PDF. The City of San Francisco, 2005. Accessed October 30, 2017.

<sup>63</sup> *Ibid.*

Francisco Health Code, which provided codes, rules, regulations, and operating procedures for medical cannabis dispensaries.<sup>64</sup>

Despite the city's 2005 moratorium on cannabis dispensaries, San Francisco and its Board of Supervisors continued to support cannabis for medicinal purposes as a whole. In 2007, the Board of Supervisors passed Resolution No. 307-07, "acknowledging [the] importance of safe and legal access to medical cannabis in San Francisco."<sup>65</sup> The resolution further urged the U.S. Attorney's Office in San Francisco to cease from investigating and prosecuting medical cannabis providers, caregivers and patients.

On October 7, 2011, California's four United States Attorneys announced law enforcement efforts against illegal operations within the for-profit cannabis industry.<sup>66</sup> Melinda Haag, the U.S. Attorney General for Northern California at the time, threatened landlords of cannabis dispensaries located near schools with property seizure.<sup>67</sup>

Anticipating the decriminalization of adult-use cannabis for adults, the San Francisco Board of Supervisors created the Cannabis State Legalization Task Force in 2015.<sup>68</sup> The task force is comprised of a range of stakeholders, from representatives of the Department of Public Health, to industry members, and community residents. The task force hosts public meetings to discuss issues related to the regulation of adult-use cannabis activity in an effort to advise the City's policymakers on the legalization of adult-use cannabis. To date, the task force has created over 200 recommendations for consideration.

San Francisco's "Budget and Appropriation Ordinance" for the Fiscal Year 2017-2018 established the Office of Cannabis to coordinate city departments and state agencies for the regulation of commercial cannabis activity in 2018.<sup>69</sup>

### Arrest Rates in San Francisco

To better understand which individuals and communities have been disproportionately impacted by War on Drugs enforcement policies, this section takes available data sets and reviews arrests rates by race, ethnicity, and geographic location in the City and County of San Francisco. The arrest analysis relies on

64 The San Francisco Department of Public Health. Article 33: Medical Cannabis Act. PDF. The City and County of San Francisco. Accessed October 30, 2017. [https://www.sfdph.org/dph/files/EHSdocs/MedCannabis/MCD-Article\\_33.pdf](https://www.sfdph.org/dph/files/EHSdocs/MedCannabis/MCD-Article_33.pdf).

65 The San Francisco Board of Supervisors. Resolution No. 307-07: Condemning Prosecution of Medical Marijuana by the Federal Government. PDF. The City of San Francisco, 2007. Accessed October 30, 2017. <http://sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions07/r0307-07.pdf>.

66 "California's Top Federal Law Enforcement Officials Announce Enforcement Actions against State's Widespread and Illegal Marijuana Industry." The United States Attorney's Office, October 7, 2011. Accessed October 30, 2017. <https://www.justice.gov/archive/usao/cac/Pressroom/2011/144a.html>.

67 United States Attorney, Northern District of California. Re: Marijuana Dispensary at REDACTED City and County of San Francisco APN: REDACTED. PDF. KQED. Accessed October 30, 2017. <http://ww2.kqed.org/news/wp-content/uploads/sites/10/2011/10/US-Attorney-marijuana-letter.pdf>.

68 "Knowledge Sharing & Collaboration: Cannabis State Legislation Task Force." The San Francisco Department of Public Health, 2015. Accessed October 29, 2017. <https://www.sfdph.org/dph/comupg/knowledge/csl/default.asp>.

69 Office of the Controller. Budget and Appropriation Ordinance 145-16. PDF. The City and County of San Francisco. Accessed October 29, 2017. <http://sfcontroller.org/sites/default/files/Documents/Budget/FY17%20%26%20FY18%20AAO%20FINAL%20Budget%20with%20tails.pdf>.

data provided by San Francisco Police (SFPD) and Sheriff's Department (SFSO), and features comparable statewide statistics, published by the California Criminal Justice Statistics Center and posted on the Attorney General's Open Justice site (DOJ, 2017).

A broader analysis of all drug arrests was conducted largely by the Center on Juvenile and Criminal Justice (CJCJ), which has issued a series of reports detailing a pattern of racially discriminatory arrest practices in San Francisco, particularly for drug offenses.<sup>70</sup> The analysis begins with CJCJ's review of all drug arrests in San Francisco from 1977 to 2016, with a strong focus on felony arrests, (which include manufacture, sale, and large-quantity drug possession). This report then analyzes San Francisco's cannabis arrests from 1990-2016. The cannabis arrests captured in the data set include felony charges and custodial misdemeanors and infractions.<sup>71</sup> Misdemeanors primarily involve low-quantity possession, though possession of less than an ounce was downgraded to an infraction in 2011.

SFPD and SFSO data have several deficiencies in how race and ethnicity are treated. Most crucially, Hispanic/Latino ethnicity is posited as a type of racial identity in the data, erasing the nuance of race/ethnicity within the Latino community. Hispanic coded arrests also only represented less than 1% of arrests from 1990-2016, a level that is highly inconsistent with available conviction data for that time period. In other words, it is likely Latino arrests are distributed amongst "White" and other racial categories, which may undermine the validity of arrest rates across racial categories.

In response to the lack of data on adult Hispanic/Latino cannabis arrests, CJCJ supplemented their analysis with statistics from the San Francisco Juvenile Probation Department (SFJPD) (2017) which more accurately reflect how drug arrests differ by race and ethnicity amongst juveniles. Furthermore, the analysis of cannabis arrests is confined to examining African American cannabis arrests percentages relative to their percentage of the population, rather than in comparison to the arrest rates of other racial groups. To compare drug arrests across populations, CJCJ calculated arrest rates by dividing totals by state Department of Finance populations for each age group, gender, and race.

#### *Drug Arrests Analysis, 1977-2016*

CJCJ's study of drug arrest data for felony charges found significant fluctuations in the City's drug law enforcement, primarily involving African American arrest rates. Their key findings included:

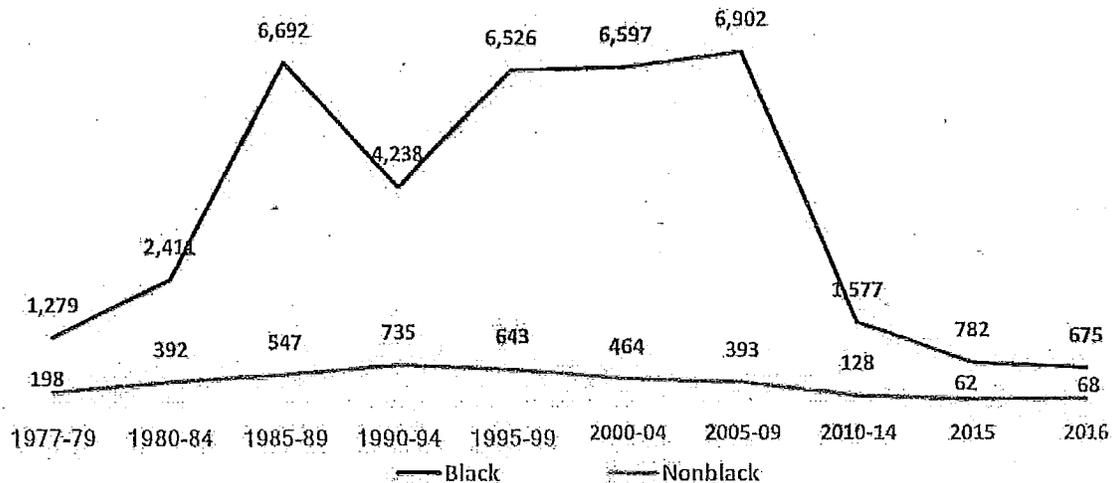
- From 1980 to the mid-1990s, San Francisco's racial patterns in enforcement of drug laws roughly resembled those statewide. Still, African Americans in San Francisco were 4 to 5 times more likely to be arrested for drug felonies prior to the mid-1990s than their proportion of the total population would predict.
- From 1995-2009, San Francisco experienced an explosion in drug felony arrests of African Americans that did not occur elsewhere in the state, nor for other racial categories in San Francisco.
- From 2008 - 2016, the City's decline in drug arrests for all races was larger than occurred statewide.
- From 2010 - 2016, drug arrests fell sharply for all races in San Francisco from 2010 through 2016. In 2008, a number equal to 8.7% of San Francisco's African American population was arrested for drug felonies. In 2016, the number had dropped to 0.7%.

<sup>70</sup> See Appendix A. Center on Juvenile and Criminal Justice Drug Arrests Report, 2017.

<sup>71</sup> See Appendix B. Full List of Cannabis Specific Statutes Reviewed:

- From their 2008 peak, drug felony rates fell 92% among African Americans and by 84% among non-black races in the City (DOJ, 2017). These declines were much larger than occurred elsewhere in California (79% for African Americans, 68% for other races).

**Figure 3. San Francisco felony drug arrests by race, per 100,000 population, annual averages (1977-2016)**



Source: CICI (2017).

- While some of the decline in felony arrests is due to recent state reforms to reclassify many felony drug offenses as misdemeanors, misdemeanor drug arrests also fell by 90% in San Francisco from 2008 to 2015, also a much larger decline than statewide.
- Racial disparities in 2016 have narrowed from the peak year, 2008, when African Americans in San Francisco were 19.2 times more likely than non-black San Franciscans, and 4.5 times more likely than African Americans elsewhere in California, to be arrested for a drug felony.
- Even at today's much lower levels, however, large racial disparities persist. In 2016, African Americans in San Francisco experienced felony drug arrest rates 10 times higher than San Franciscans of other races, and 2.4 times higher than African Americans elsewhere in California.
- Among youth (a very small sample), Latinos are now twice as likely as African Americans, five times more likely than whites, and nearly 10 times more likely than Asians to be arrested for a drug felony.

Figure 4. Juvenile felony drug arrests per 100,000 population age 10-17, San Francisco vs. rest of California, 2009 vs. 2016

Felony Drug Arrest Rate	MALE				FEMALE			
	African American	White	Hispanic	Asian	African American	White	Hispanic	Asian
2009 San Francisco	2,531.6	237.9	915.1	92.7	2,419.4	69.3	20.8	38.4
2009 California (excluding SF)	486.6	200.6	211.0	120.8	48.1	61.9	29.9	19.4
Ratio, SF drug felony rate vs. CA	5.2	1.2	4.3	0.8	50.3	1.1	0.7	2.0
2016 San Francisco	76.8	19.4	63.4	25.6	-	-	62.3	-
2016 California (excluding SF)	90.4	38.1	66.9	29.5	11.2	12.2	10.9	4.2
Ratio, SF drug felony rate vs. CA	0.8	0.5	0.9	0.9	-	-	5.7	-

Source: CJCJ (2017)

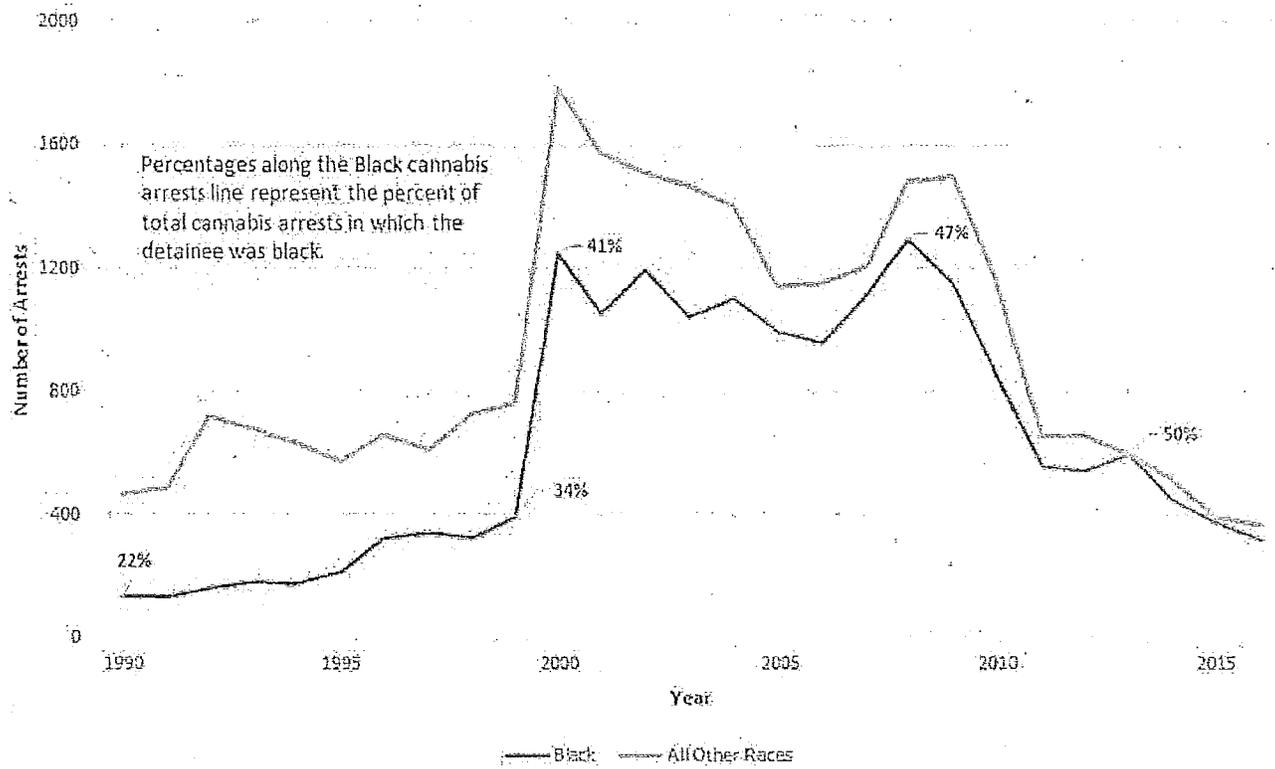
- African American girls and young women were until recently targeted for criminal law enforcement at much higher rates in San Francisco in comparison to all other demographic groups in the City. In 2007 (the peak year for youth drug arrests), San Francisco's African American female youth accounted for 40% of the felony drug arrests of African American female youths in California and had arrest rates 50 times higher than their counterparts in other counties. In 2014-2016, only one African American female youth was arrested in San Francisco for a drug felony.
- In 2007, 125 of the City's 265 youth drug felony arrestees were Latinos, 112 were African Americans, and 12 were Asians. In 2016, seven were Latinos, one was African American, two were Asians, and none were White.
- Racial patterns in drug arrests do not match racial patterns in drug abuse. Of the 816 people who died from abusing illicit drugs in San Francisco during the five-year, 2011-2015 period, 55% were non-Latino Whites, 22% were African Americans, 10% were Latinos, and 9% were Asians. In contrast, 43% of the city's 6,587 drug felony arrests during

#### *Cannabis Arrests, 1990-2016*

Patterns similar to those found in CJCJ's analysis are apparent when specifically examining cannabis-related felony and custodial misdemeanor arrests. As demonstrated in Figure 5 below, from 1990-2016, Black<sup>72</sup> individuals represent an increasingly larger percentage of total cannabis-related arrests in San Francisco. Though Latino arrests were not discernible from the data set, Asian cannabis arrests reflected only 1% of the total arrests from 1990 to 2016.

<sup>72</sup> Arrests are racially coded in the data as "B" for Black or African American in the SFSO cannabis arrests data set, meaning individuals from the African diaspora may also be reflected in the data. This section of the analysis addresses the Black population in San Francisco with an understanding that an overwhelming majority of Black arrests likely involve African Americans.

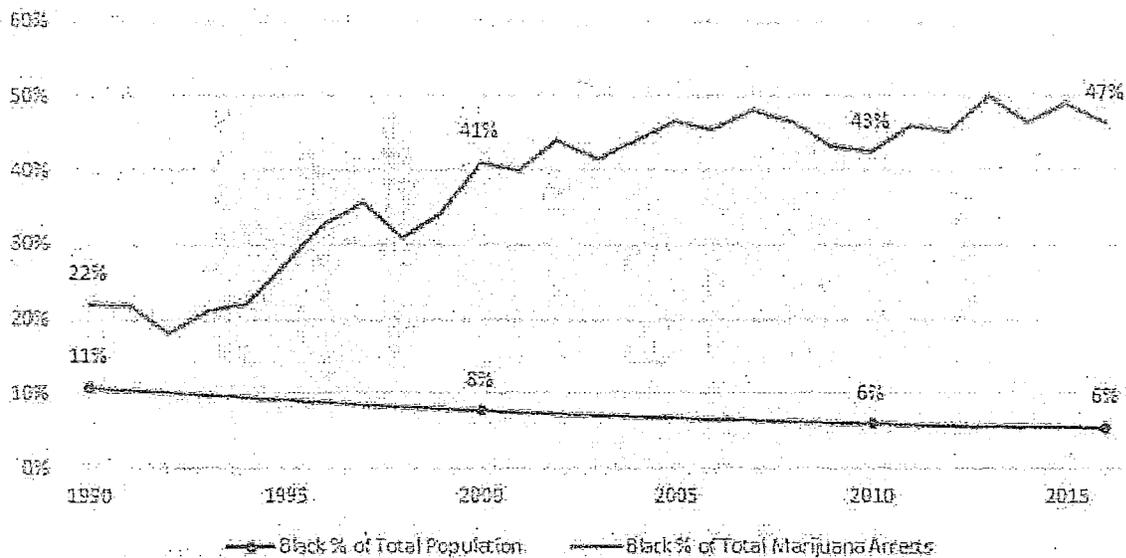
Figure 5. San Francisco Cannabis Arrests for Black Individuals vs. All Other Races (1990-2016)



Source: SFSO arrest data (1990-2016)

The jump in total arrests in 2000 was accompanied by a jump in the disproportionality of Black arrests. Arrests increased by 160% between 1999 and 2000, from 1164 to 3042. The percent of arrests featuring Black detainees went up from 34% to 41% of all arrests, a 20% increase. Despite the high percentage of Black cannabis arrests, Black San Franciscans comprised 7.8% of San Francisco's population in 2000. Even as the number of total arrests drastically falls around 2011, after the downgrading of misdemeanor cannabis possession to an infraction, Black cannabis arrests as a percentage of total arrests hovers around 50%. As Figure 6 shows, Black people only represented 6% of San Francisco's population in 2010.

Figure 6. Percent of Black Cannabis Arrests Compared to Black Population in San Francisco (1990-2016)

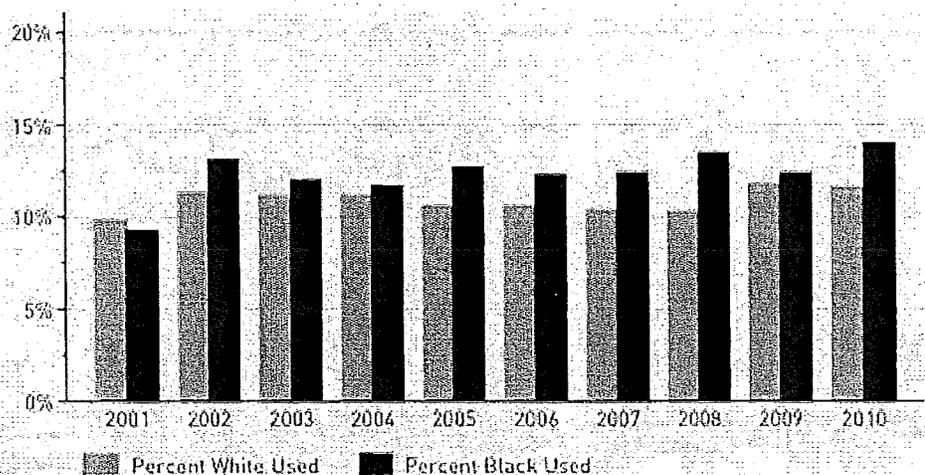


SOURCE: SFSO Arrests Data (1990-2016), U.S. Census (1990,2000,2010), American Community Survey (2016)

### Identifying Disadvantaged Communities

As indicated by the racial disparities in San Francisco arrest and booking rates, the War on Drugs has produced disparate arrest rates across racial groups. And while rates of drug use and sale are commensurate across racial lines (see Figure 7), Black and Latino communities interact with the criminal justice system, including via arrests, bookings, and incarceration, at a rate far higher than their White counterparts.

Figure 7. Cannabis Use by Race (2001-2010)



Source: National Household Survey on Drug Abuse and Health, 2001-2010

There is a clear relationship between race, the criminal justice system, and economic opportunity, both in San Francisco and nationally. An Obama White House Report, *Economic Perspectives on Incarceration and the Criminal Justice System*,<sup>73</sup> uses economic analysis to understand the costs, benefits, and consequences of criminal justice policies. Notably, the report points out that having a criminal record in the U.S. makes it more difficult to find employment and those who have been incarcerated earn 10 to 40 percent less than similar workers without a history of incarceration.<sup>74</sup> The report also estimates that rates of parental incarceration are 2 to 7 times higher for Black and Hispanic children than White children, and parental incarceration is a strong risk factor for a number of adverse outcomes, including but not limited to mental health problems, school dropout, and unemployment. Finally, the report concludes that consequences of interactions with the criminal justice system can include not only negative impacts on employment, but also health, debt, transportation, housing, and food security, and on a national level,

<sup>73</sup>[https://obamawhitehouse.archives.gov/sites/default/files/page/files/20160423\\_cea\\_incarceration\\_criminal\\_justice.pdf](https://obamawhitehouse.archives.gov/sites/default/files/page/files/20160423_cea_incarceration_criminal_justice.pdf)

<sup>74</sup> Executive Summary, page 5: "Recent job application experiments find that applicants with criminal records were 50 percent less likely to receive an interview request or job offer, relative to identical applicants with no criminal record, and these disparities were larger for Black applicants."

these impacts are “disproportionately borne by Black and Hispanic men, poor individuals, and individuals with high rates of mental illness and substance abuse.”<sup>75</sup>

Overall, the White House report makes clear that interactions with the criminal justice system, including through enforcement of cannabis-related activity, can have negative and consequential economic impacts on the arrestee and their immediate family.

#### *Identifying San Francisco’s Disadvantaged Community*

San Francisco’s data on arrest rates by location is inadequate for the purposes of mapping arrest rates by geographic locations over an extensive period of time, and therefore understanding long-term impacts of over-policing in certain communities (i.e. prior to 2010). However, this analysis utilizes available location data of cannabis arrest (occurring between January 2010 - October 2017), for the purposes of understanding where high arrest rates overlap with economically disadvantaged communities (see Figure 9 on the following page).

For 2017, California Department of Housing and Community Development defines San Francisco’s extremely low-, very low- and low-income levels as a household annual income at or below 80% of the Area Median Income for a 4-person household, \$115,300.<sup>76</sup> AMI may be broken down into more exact figures by household size (see Figure 8). However, this analysis considers a low-income household to be any household with a total income less than 80% of San Francisco’s AMI, which is \$92,240. Figure 8 below shows the current areas of the City with the highest percentage of low income populations.

**Figure 8. 2017 San Francisco Income Thresholds by Area Median Income (AMI)**

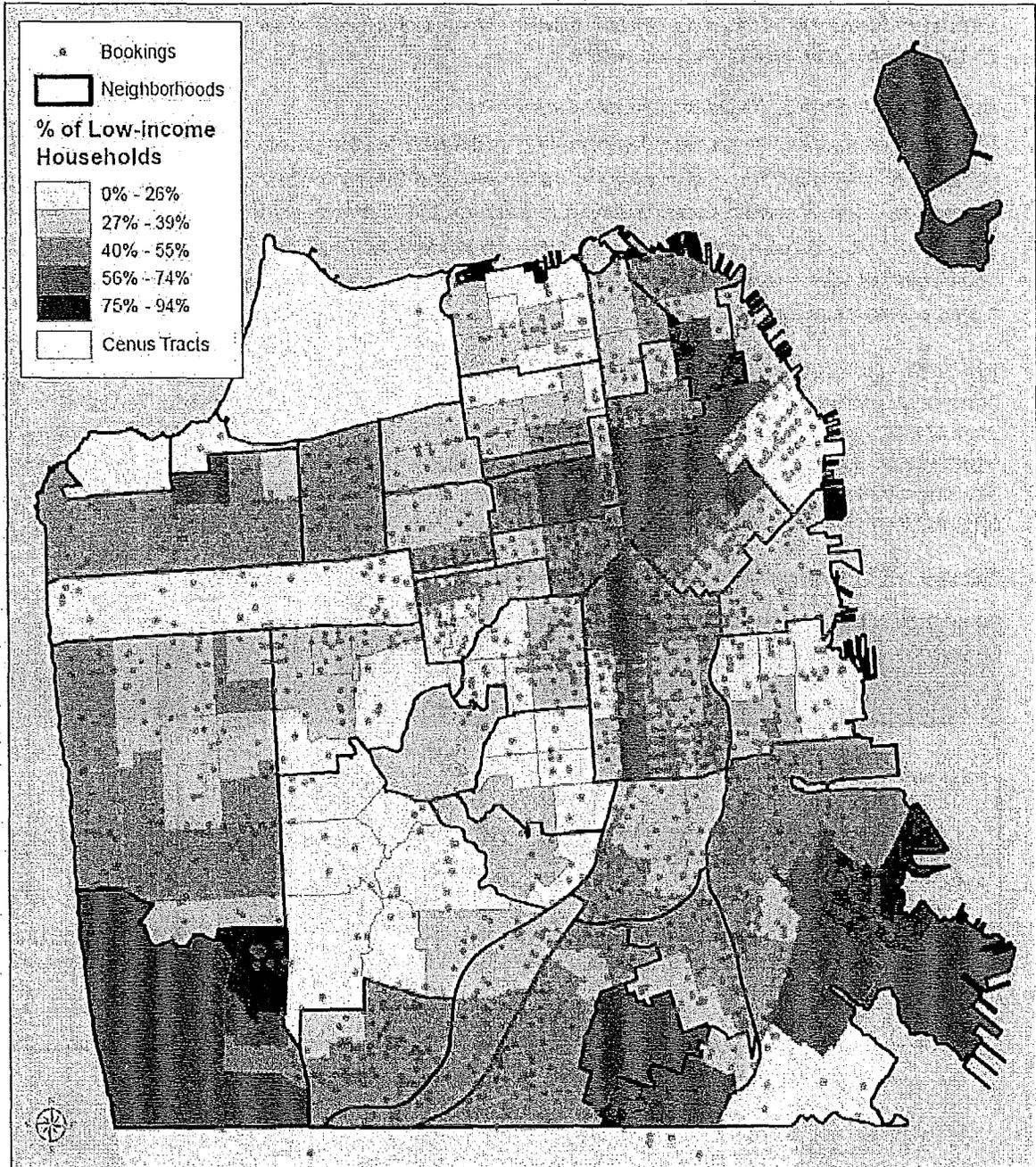
Number of Persons in Household		1	2	3	4	5	6	7	8
San Francisco	Extremely Low	\$27,650	\$31,600	\$35,550	\$39,500	\$42,700	\$45,850	\$49,000	\$52,150
4-Person AMI:	Very Low Income	\$46,100	\$52,650	\$59,250	\$65,800	\$71,100	\$76,350	\$81,600	\$86,900
\$115,300	Low Income	\$73,750	\$84,300	\$94,850	\$105,350	\$113,800	\$122,250	\$130,650	\$139,100

<sup>75</sup> Conclusion,

[https://obamawhitehouse.archives.gov/sites/default/files/page/files/20160423\\_cea\\_incarceration\\_criminal\\_justice.pdf](https://obamawhitehouse.archives.gov/sites/default/files/page/files/20160423_cea_incarceration_criminal_justice.pdf)

<sup>76</sup> CA HCD Income Limits for 2017, <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/inc2k17.pdf>

Figure 9. Concentration of Low-Income Households at or Below 80% of Median Income by San Francisco Census Tract with Cannabis Bookings by Arrest Location (2010-2017)



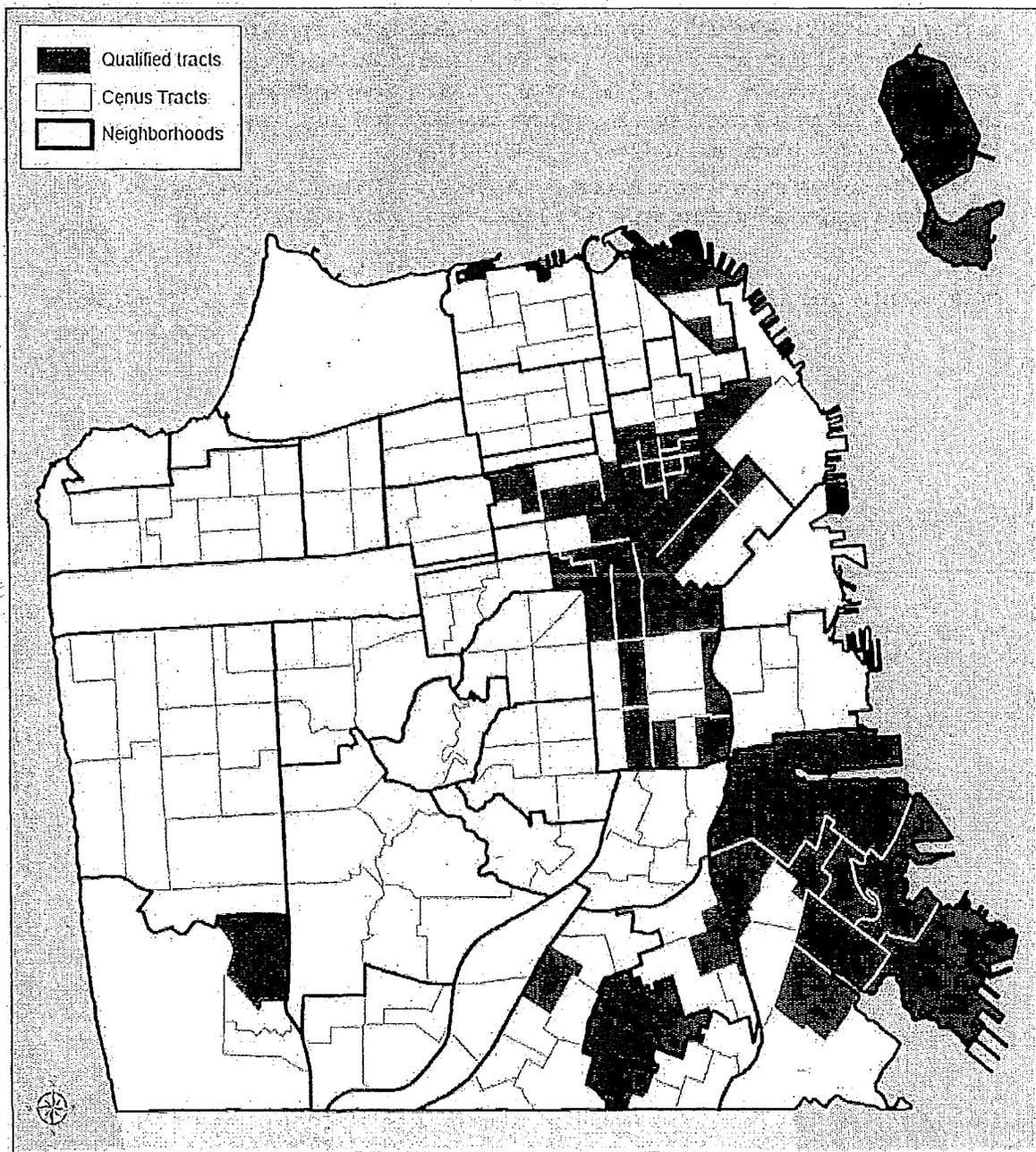
Source: Mayor's Office of Housing and Community Development (2017)

To further understand which communities within the City have experienced a disproportionately high number of arrests and potential economic disadvantage as a result, the map in Figure 10 is further refined to show census tracts with both a high number of low income households (defined as <80% AMI) and a significant number of cannabis related arrests. The median percentage of low-income households across San Francisco census tracts is 40.2% according to census data. Additionally, the median number of bookings per 100 people across census tracts for 2010-2016 was 0.43. Therefore, the map in Figure 10 highlights all census tracts that meet the following two criteria:

- A percentage of low-income households higher than the median value of 40.2%
- Bookings per 100 persons in the 70th percentile, or rather greater than 0.83

Of 197 possible census tracts, 43 met both criteria and are represented in blue in Figure 10 below.

Figure 10. Tracts with low income population (<80% AMI) above median percentage and bookings per 100 persons above 70th percentile.



Source: Mayor's Office of Community Housing and Development (2017)

Figure 11. Qualified Tracts by Neighborhood, Unemployment Rate, Race Composition, and Cannabis Arrests

Neighborhood	Census Tract	Low-income Households (%)	Unemployment Rate (%)	Racial/Ethnic Minority (%)	Cannabis Arrests per 100 Persons (2010-2017)
Bayview-Hunters Point	9809	42.6%	15.8%	56.8%	39.11
	612	62.2%	15.3%	90.0%	7.29
	232	64.0%	14.8%	92.9%	4.75
	231.03	90.7%	17.7%	96.9%	3.35
	234	68.5%	14.9%	97.4%	2.18
Excelsior	9806	58.3%	20.5%	88.9%	1.85
	231.02	76.0%	18.5%	94.7%	1.44
	230.01	53.6%	10.8%	93.1%	1.02
Excelsior	260.01	53.9%	7.2%	89.6%	1.01
South Beach	117	68.5%	9.9%	67.6%	5.87
	162	47.7%	3.0%	38.2%	1.57
Hayes Valley	168.02	42.8%	6.0%	43.3%	1.13
	168.01	40.6%	6.9%	38.6%	1.07
Lakeshore	332.01	75.5%	24.5%	56.8%	1.64
McLaren Park	9805.01	70.0%	23.6%	93.0%	1.14
Mission	177	41.1%	9.4%	58.8%	9.30
	201	66.2%	11.3%	71.6%	8.51
	209	59.6%	6.1%	64.1%	2.41
	228.02	54.7%	2.8%	66.0%	2.25
	208	48.5%	7.2%	67.5%	2.05
	229.03	41.3%	5.0%	67.2%	1.35

Neighborhood	Census Tract	Low-income Households (%)	Unemployment Rate (%)	Racial/ Ethnic Minority (%)	Cannabis Arrests per 100 Persons (2010-2017)	
	229.01	47.5%	12.7%	74.2%	0.99	
	202	49.2%	9.8%	46.6%	0.88	
North Hill	120	70.4%	5.6%	56.9%	3.20	
North Beach	106	64.3%	7.8%	66.3%	2.30	
	101	51.1%	5.1%	52.9%	0.97	
Portola	257.02	51.8%	5.8%	93.1%	0.94	
South of Market	176.01	69.6%	4.6%	72.4%	19.41	
	178.02	48.6%	7.3%	59.7%	2.71	
	178.01	73.9%	6.7%	72.3%	1.67	
Tenderloin	125.01	92.2%	7.1%	73.6%	29.18	
	124.02	64.0%	5.3%	60.9%	10.97	
	123.01	94.4%	5.0%	69.2%	7.41	
	124.01	86.1%	9.1%	72.1%	7.21	
	125.02	92.1%	14.1%	85.0%	6.17	
	122.02	78.4%	11.8%	64.6%	3.10	
	122.01	71.0%	6.5%	63.3%	2.35	
	123.02	66.7%	7.2%	61.1%	2.31	
	Treasure Island	179.02	68.1%	13.3%	71.9%	1.16
	Wichita Valley	605.02	82.2%	22.2%	96.6%	2.31
161		71.7%	10.1%	79.6%	1.71	
Western Addition	158.01	46.6%	12.8%	65.0%	1.35	
	160	54.5%	4.9%	51.8%	0.98	

Source: American Community Survey (2016), SFSO Arrest Data (2010-2017), DataSF (2017)

As Figures 10 and 11 show, more than half of the qualified census tracts fall in Bayview Hunters Point, the Mission, and the Tenderloin combined. These neighborhoods also all feature census tracts with significant rates of unemployment and some of the highest rates of cannabis arrests. It should be noted that this analysis does not establish direct correlation between cannabis arrest and low-income households. For instance, the high number of students residing in Lakeshore may be a driving factor behind the lower income levels present in census tract 332.01, rather than the high cannabis arrest rates. However, given the existing literature on the relationship between economic opportunity and the War on Drugs, the tracts identified above are the places where that relationship is most likely to have had an adverse economic impact.

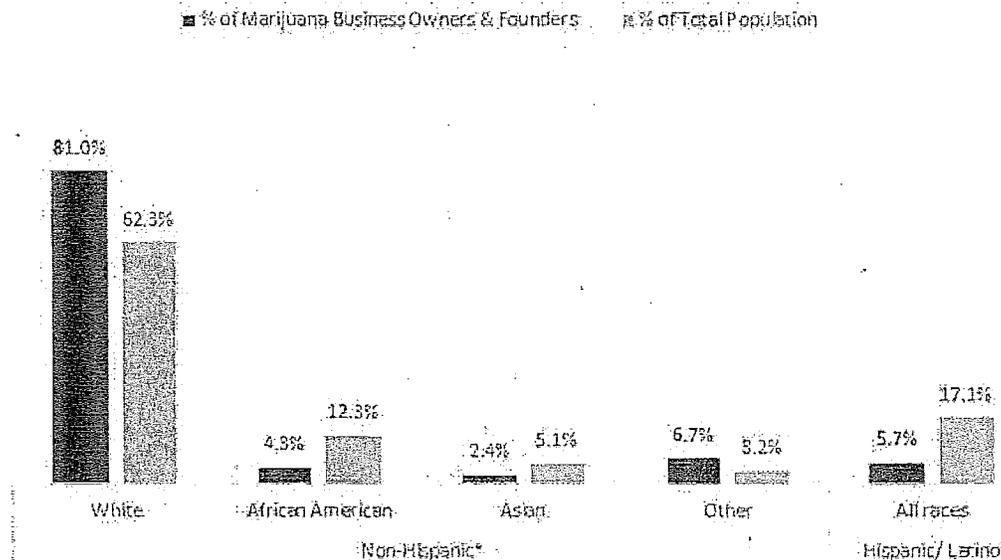
### Existing Cannabis Industry Data

Given the infancy of the legal cannabis market and the continued illicit nature of the industry in a federal context, there is a dearth of quality demographic data on cannabis industry professionals. The existing industry, as discussed in this section, relies on small sample surveys, which limits confidence in how these numbers can be applied to larger populations. However, these surveys are our best look into this emerging industry.

#### National Industry

Marijuana Business Daily conducted an anonymous online poll of 567 self-identified cannabis industry business owners and executives, shedding some light on the composition of the national market.<sup>77</sup> Ethnicity was not treated distinct from race in the Marijuana Business Daily survey, instead requiring Latino respondents to choose between responding to the survey with their race or their ethnicity, not both. It should be noted that this has implications for the data's accuracy. Still, according to the survey, 19% of respondents were racial/ethnic minorities, though racial/ethnic minorities comprise 38.7% of the national population. Under representation affects non-Hispanic African Americans and Asians as well as Hispanic/Latino communities. Non-Hispanic African Americans and Latinos face the highest level of disproportionality, each owning only a third of the market that their share of the national population would imply.

Figure 12. Survey of Race & Ethnicity in the National Cannabis Industry



\*Note: The chart above assumes all survey respondents that did not identify as Hispanic/Latino are non-Hispanic, however this may not be the case given respondents were not given the option to identify both their race and ethnicity.

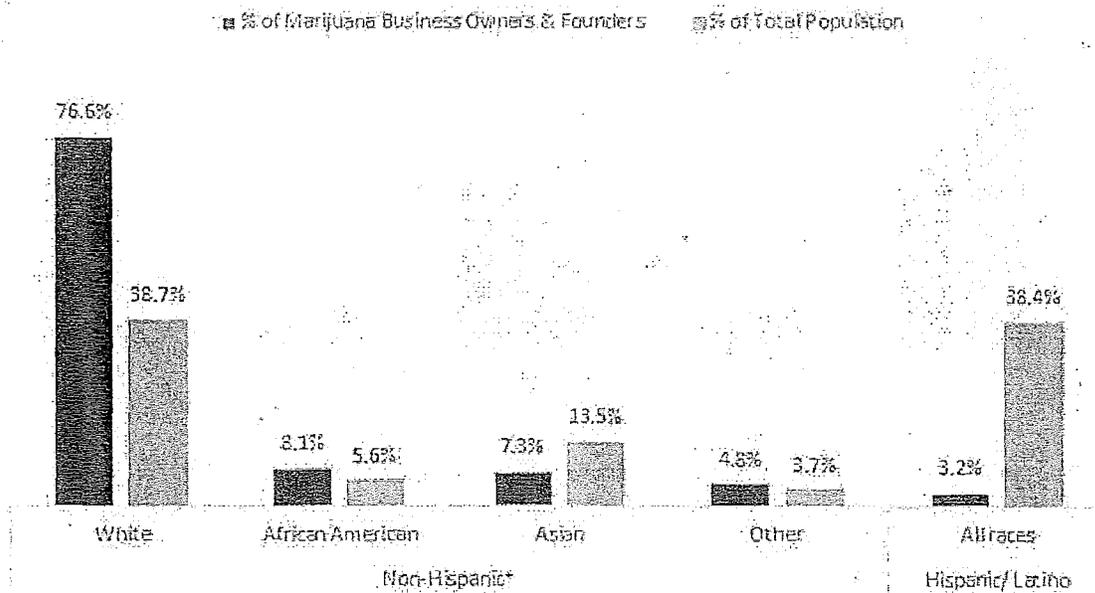
Source: Marijuana Business Daily (2017), American Community Survey (2016)

<sup>77</sup> Marijuana Business Daily (<https://mjbizdaily.com/women-minorities-marijuana-industry/>)

### California Industry

Almost a third of respondents to the Marijuana Business Daily survey reported that their business headquarters were in California. This is reflective of California's share of the national market, in which California accounted for 27% of 2016 legal market sales.<sup>78</sup> The state also boasts the highest percentage of minority-owned cannabis businesses, according to the survey. Over 23% of California respondents were racial minorities. In comparison to the state's total population, which is 61% comprised of racial/ethnic minorities, there is still significant under representation in the industry.

Figure 13. Survey of Race & Ethnicity in the California Cannabis Industry



\*Note: The chart above assumes all survey respondents that did not identify as Hispanic/Latino are non-Hispanic, however this may not be the case given respondents were not given the option to identify both their race and ethnicity.

Source: Marijuana Business Daily (2017), American Community Survey (2016).

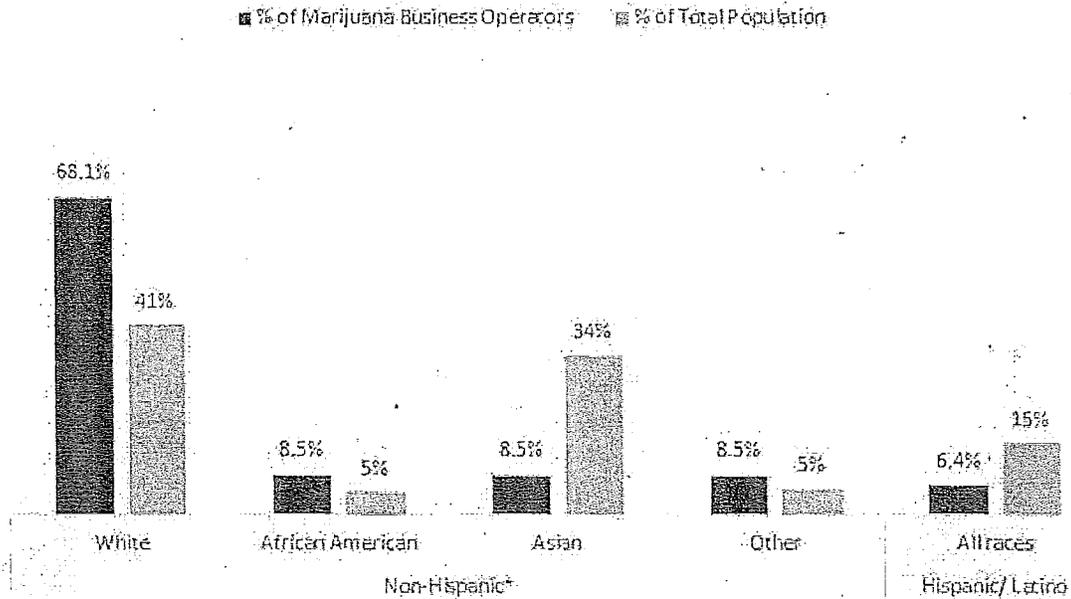
### San Francisco Industry

A small 77-person survey conducted by the San Francisco chapter of the California Growers Association found more diversity in the cannabis industry on a local level than within the nation and the state. Respondents were able to self-identify their race/ethnicity in a free-form field. Figure 14 shows that 66% of respondents currently operate a cannabis business in the City, and of them, 32% identified as a racial or ethnic minority. This is a higher percentage than the state's industry as reflected by the Marijuana Business Daily Survey, meaning the San Francisco market may be a heavy influence on the level of diversity in California's cannabis industry. Still, racial and ethnic minorities are 58% of San Francisco's total population (ACS 2016), 26 percentage points higher than the percentage of racial and ethnic minority business operators in the survey. The Asian community is especially underrepresented in the local market, representing 34% of the San Francisco population but only 8.5% of cannabis business

<sup>78</sup> SF Weekly -- <http://www.sfweekly.com/news/california-leads-nation-in-legal-marijuana-sales/>

operators. Additionally, 31% of marijuana business operators responding to the survey were female, a figure well below parity.

**Figure 14. Survey of Race & Ethnicity in the San Francisco Cannabis Industry**



*\*Note: The chart above assumes all survey respondents that did not identify as Hispanic/Latino are non-Hispanic, however this may not be the case. Source: CA Growers Association - San Francisco Chapter (2017), American Community Survey (2016)*



## IV. Barriers to Entry

### Key Barriers to Entry into the Adult-Use Cannabis Market

This section provides an overview of factors or barriers that can make entry into the adult-use cannabis market difficult. The barriers to entry identified in Figure 15 are not an exhaustive list, but rather a list of key factors that may be particularly difficult to overcome for communities that have been disproportionately impacted by cannabis drug enforcement. Equity program components should be designed to mitigate these barriers.

**Figure 15. Key Barriers to Entry**

Category	Barrier
Financial	Access to Capital or Financing
	Access to Real Estate
	Licensing and Regulatory Fees
Technical	Business Ownership
	Legal and Regulatory
	Tax
	Awareness of Equity Programs
Criminal	Background Checks
Other	Geography
	Distrust in Government

#### Financial Barriers

All new businesses face financial requisites to enter a new market. Access to capital or business financing is necessary to purchase the equipment and labor to get any business up and running. For individuals disproportionately targeted for drug enforcement and consequently, disadvantaged socio-economically during the last decades of cannabis prohibition, these financial barriers can be particularly difficult to overcome.

##### *Access to Capital or Financing*

Even post-decriminalization of marijuana offenses in California, the Drug Policy Alliance and the ACLU found that the cost of marijuana-related infractions “can be a substantial burden for young and low-income people” and was “particularly acute for black people and young men and boys.” The cumulative effect of economically-disadvantaged neighborhoods that have been disproportionately targeted with enforcement (often with punitive monetary fines) means that many individuals do not have the personal capital to invest in a new business.

Additionally, these individuals are less likely to be able to secure traditional business financing or even open traditional checking accounts associated with their business. As major banks are federally regulated and cannabis remains illegal at the federal level, most banks refuse to offer services to cannabis businesses. Without the initial capital to launch a business venture or to sustain operating costs until profits are realized, these individuals are rendered unable to enter the adult-use cannabis market.

#### *Access to Real Estate*

Closely related to financing, but of acute concern in San Francisco, is access to real estate. New businesses need a location from which to operate, and San Francisco has an extremely competitive real estate market with some of the highest rents and lowest vacancy rates for commercial and retail properties. Economically-disadvantaged individuals may find San Francisco real estate to be prohibitively expensive, and cannabis entrepreneurs may find banks unwilling to extend loans.

#### *Licensing and Regulatory Fees*

Cannabis businesses intending to operate in San Francisco will be required to obtain a license and pay any applicable fees to legally operate a business. In addition to fees for the license itself, these fees may include regulatory costs (e.g., building inspection, security requirements) as well as license renewal fees to continue operations. Costly licenses combined with complex regulatory requirements disproportionately disadvantage lower-income individuals.

#### **Technical Barriers**

Technical barriers to entry include aspects of business planning, ownership expertise, and operational practices that are typically knowledge-based barriers.

#### *Business Ownership*

Individuals starting a new business may lack the technical knowledge related to business plan creation, accounting, or sales forecasting that are beneficial to any new venture. While these business practices are not unique to cannabis, disadvantaged individuals will have a harder time paying for business classes, technical consultants, and/or contracting out specialized work.

Cannabis-based businesses face an additional technical knowledge gap of learning industry-specific best practices in an industry that has been historically secretive and underground, including cultivation techniques and manufacturing processes used in specialized products that are compliant with San Francisco regulations.

#### *Legal and Regulatory*

Compliance with the legal and regulatory requirements surrounding an adult-use cannabis business is an unpredictable barrier to entry given the current unestablished regulatory framework. Cannabis businesses will require a license to operate from both the State of California and the City and County of San Francisco. San Francisco's licensing process and conditions for operation are not yet established and could be relatively complex to navigate, especially for first-time entrepreneurs. These barriers are more difficult to navigate for lower-income individuals who may not be used to working in this environment and/or unable to afford specialized consulting or legal assistance.

### *Tax*

Cannabis businesses will be subject to traditional state and local business taxes that often require some amount of expertise to ensure proper compliance. Further complicating matters is that cannabis businesses will be subject to a state and local tax system that has not yet been fully established. Without a clear picture of the tax regime, entrepreneurs are unable to estimate their tax burden even if they could accurately forecast all other costs. In this atmosphere, well-funded businesses that can build in a financial contingency for unforeseen tax liability will have an advantage over less economically-advantaged ventures.

### *Awareness of Equity Programs*

If established, an equity program can help mitigate the other barriers to entry presented in this section. A program is only helpful, however, if cities and states conduct the necessary stakeholder outreach such that potentially eligible persons are aware of the program and its benefits as early as possible.

The equity component of licensing becomes particularly important when the total number of cannabis businesses are capped at a certain number, given that well-resourced operators will be able to move toward licensing faster. In a capped licensing framework, there is increased urgency to ensure that potentially-eligible applicants are educated on the equity program before applications are accepted, so that they are not crowded out of a finite number of licenses.

### **Criminal Barriers**

California's Proposition 64 states that applicants cannot be denied a cannabis business license solely because of a prior drug conviction. It is important to recognize, however, that a state license is not the only barrier to entry that can be related to a drug conviction. A criminal record can limit an individual's ability to gain employment, apply for government assistance, or even obtain a loan. In the case of individuals convicted of a drug offense, these cumulative effects coupled with fines, court costs, incarceration, and other subsequent disadvantages can be insurmountable.

### *Background Checks*

While Proposition 64 states that drug offenses will not bar an individual from licensure, other entities that an entrepreneur may encounter can still utilize background checks. For example, a bank can utilize a background check as part of evaluating a loan application. Proposition 64 does not require expungement of previous cannabis convictions from individual's criminal records, meaning that a criminal record can still pose a barrier to entry for many applicants.

### **Other Barriers**

#### *Geography*

Geography can pose as a barrier to entry when allowable zones for cannabis businesses are too far from potential entrepreneurs. While San Francisco's recreational cannabis regulations are not yet established, many cities restrict where these businesses can exist through zoning. Geography will be an important consideration to balance in eventual regulation: on one hand, neighborhoods that have been disproportionately impacted by the War on Drugs should have access to the business opportunities provided by this new market; on the other, there are unknown and potentially negative impacts (such as health impacts) of these businesses on the surrounding neighborhood, and they should not be concentrated in areas already reeling from disproportionate drug enforcement.

### *Distrust in Government*

An important barrier to entry to address is the perception of the current climate surrounding cannabis and legalization. While some individuals may feel encouraged that legalization of commercial and recreational marijuana may mitigate historically racist drug enforcement, others may wonder why a cannabis conviction will stay on an individual's criminal record or how the state will handle federal requests for information about cannabis business operators. The current ambiguity around what is legal at the local, state, and federal levels may create a barrier to entry among populations that do not trust the government to act in their best interest.

As discussed in the *Equity Analysis* section of this report, arrest and conviction of cannabis offenses have disproportionately affected communities of color, despite studies showing relatively similar rates of use of cannabis between racial groups. In this context, trust between these communities and the police or government has been low. These communities may be particularly wary of establishing a registered business in an industry in which they have been historically targeted for criminal enforcement.

## V. Cannabis Equity Program Benchmarking

### Overview of Peer Jurisdictions' Efforts in Equity in Adult-Use Cannabis Implementation

Since the legalization of medical and adult-use cannabis in several states across the country, many cities and states have recognized the inequities imposed by the War on Drugs and implemented programs to achieve equity goals and mitigate barriers to entry into this emerging market.

This section provides a broad overview of equity frameworks in other jurisdictions that are already experimenting with or implementing equity programming in adult-use cannabis. For a summary overview of equity program components and associated mitigated barriers to entry discussed in the previous section, see Appendix C.

To synthesize various possible equity programmatic elements as well as key considerations and lessons learned, the Controller's Officer researched local and state adult-use cannabis programs and conducted telephone interviews with the following peer jurisdictions:

- Oakland, CA
- Los Angeles, CA
- Denver, CO
- Massachusetts

California state law regarding cannabis delegates much autonomy to localities over licensure and regulation of cannabis operations. Oakland is the only city in the country to currently have an implemented cannabis equity program. Los Angeles presented a Cannabis Social Equity Analysis to its City Council in October 2017, detailing recommended criteria for equity programming. As the only California peers experimenting with equity frameworks, both are profiled in detail in the figures below.

Massachusetts is also considering equity concepts, but operates on a very different licensing system than California as the state retains more control over licensure and regulation. Denver does not have an established equity program, but has been licensing adult-use cannabis since 2014<sup>79</sup> and is an important comparison as it was the first major city to legalize adult-use of cannabis. Finally, a number of states have recently experimented with equity concepts for either medical or adult-use cannabis, which are also summarized at the end of this section.

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<sup>79</sup> The Denver Collaborative Approach: Leading the way in municipal marijuana management (2017 Annual Report).

## Oakland

The City of Oakland's Equity Assistance Program was established by city ordinance and is among the most well-developed programs focused on cannabis equity in the nation. Although it currently only applies to medical dispensary permits, Oakland intends to open the program to adult-use applicants as the state begins to issue adult-use permits in 2018. The program utilizes residency, geographical area, and income conditions to qualify for eligibility in the program as shown in Figure 16 below.

Figure 16. Eligibility Requirements for Oakland's Cannabis Equity Program	
Must be:	
(1) an Oakland resident,	
AND	
(2) earn 80% or less of Oakland average median income (<\$52,650),	
AND	
(a) have lived within 21 high-enforcement police beats for 10 of last 20 years.	OR (b) have been arrested and convicted of a cannabis crime in Oakland after 1996.

Oakland's equity program intends to address financial barriers to entry through a no-interest loan program offered to qualified equity applicants. The funding for this loan program will be made up of local tax revenue from cannabis businesses, but loans will not begin to be distributed until the loan fund reaches a threshold amount of \$3.4 million. Until that time, the permitting of cannabis businesses has been restricted such that permits must be issued to equity and general applicants at a 1:1 ratio – if one equity applicant is permitted, one general applicant can be permitted. After this initial phase, permits will be issued on a first-come, first-served basis, but equity applicants will be eligible for additional benefits (see Figure 17), including technical assistance and fee waivers.

Figure 17. Oakland Cannabis Equity Assistance Program Benefits	
Benefit	Details
Incubator Program	During the initial (restricted) permitting phase, non-equity applicants can receive priority permit issuance for providing an equity applicant with real estate or free rent for three years.
Business Technical Assistance	Oakland has partnered with local consultants and nonprofits to provide both business technical assistance, such as business plan workshops.
Industry Technical Assistance	Oakland has also partnered with local organizations to provide cannabis-specific assistance, such as cultivator permit compliance classes.
Zero-Interest Loans	Equity applicants can receive zero-interest startup loans to cover the costs of establishing a cannabis business.
Fee Waivers	Equity applicants are not assessed a fee for Oakland City permitting.

Oakland has been accepting applications under this equity framework since the end of May 2017 (see Figure 18). It has been tracking data regarding general and equity applicants, and currently have 216 completed applications with a ratio of 106 general applicants to 110 equity applicants. In addition, 27 applicants applied as an incubator with 17 more expressing interest in becoming an incubator.<sup>80</sup>

Applicant Category	Completed Applications
General Applications (non-equity)	106
Equity Applications (based on residency)	85
Equity Applications (based on conviction)	25
<b>Total Complete Applications</b>	<b>216</b>

As the only major city to have implemented an equity program, Oakland is instructive in what it implemented in its equity program and what it is seeing during the early stages of permitting. Figure 19 below is a summary of Oakland's key components of its equity programming and a brief discussion of key considerations and lessons learned. Green bullets represent potentially advantageous factors, while red bullets indicate potential challenges.

Equity Component	Key Considerations
Eligibility Criteria	<ul style="list-style-type: none"> <li>• The program is targeted to high-cannabis-enforcement zones or cannabis convictions, which clearly defines the eligible population.</li> <li>• Only Oakland residents are eligible, which does not account for recent years of displacement of low-income individuals.</li> <li>• Convictions only include those within Oakland, which does not include Oakland residents convicted anywhere outside the city.</li> </ul>
One-for-One Permitting Framework	<ul style="list-style-type: none"> <li>• Ensures a mandatory level of participation by eligible applicants while other program components are established.</li> <li>• Guards against equity applicants being crowded out of limited number of permits by more well-resourced competitors.</li> <li>• Potential for artificial bottleneck if there are insufficient equity applicants (current data from Oakland does not show this to be the case).</li> <li>• Oakland caps dispensary permits at eight annually. This means that while half of new dispensaries will be from equity applicants, the discrete number of permits is low (four).</li> <li>• There is potential for market distortion given the cap on distribution points (dispensaries) with no cap on cultivation or manufacture facilities.</li> </ul>
Incubator Program	<ul style="list-style-type: none"> <li>• Allows general applicants to receive a benefit for providing benefits to equity applicants, which supports Oakland's equity goals at no cost to the city.</li> <li>• Only applies to real estate; other potential benefits, like money, technical assistance, or equipment are not included.</li> </ul>

<sup>80</sup> Per interview with City of Oakland.

Figure 19. Oakland Equity Assistance Program Considerations	
Equity Component	Key Considerations
	<ul style="list-style-type: none"> <li>• The program provides a benefit to well-resourced applicants who have the space and/or capital to provide benefits to equity applicants. Small- and medium-sized operators are relatively disadvantaged against larger competitors who can afford this benefit.</li> </ul>
Business Technical Assistance	<ul style="list-style-type: none"> <li>• Use of contracted organizations allows Oakland to minimize city staff while leveraging local industry expertise.</li> <li>• Contracting requires up-front funding before adult use tax revenue is collected.</li> </ul>
Zero-Interest Loans	<ul style="list-style-type: none"> <li>• Provides significant benefit to equity applicants who would otherwise be unable to afford – or even obtain – a private business loan.</li> <li>• The program is dependent upon tax revenue generated by permits to build up enough initial capital to begin issuing funds, but funding streams are potentially limited by the dispensary cap and the one-for-one permitting framework.</li> </ul>

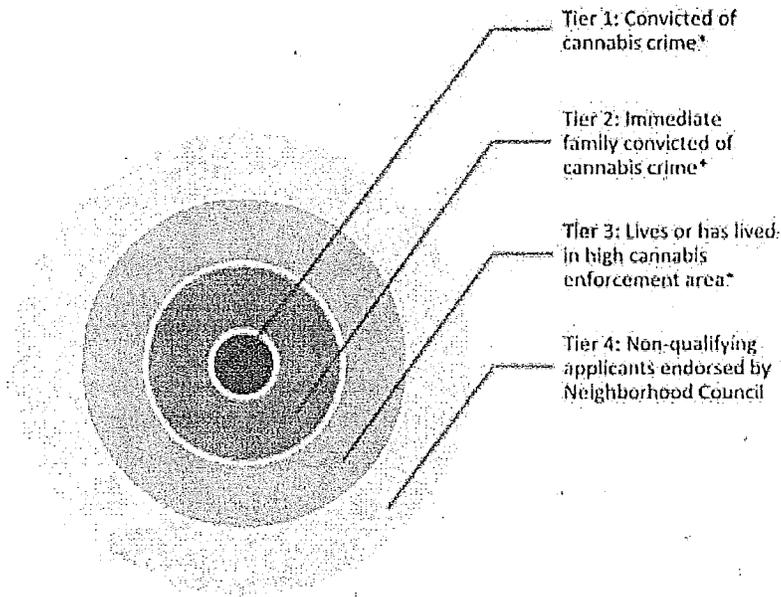
### Los Angeles

Los Angeles' equity program has not yet been established in city ordinance, but an in-depth equity report was delivered to the City Council in October with recommendations that provide guidance on a potential program framework. The report provided options for both program eligibility and services that will be offered to qualifying applicants. While many options were presented, the city ordinance has not yet been passed, so it is currently unknown what exact components will be implemented. As commercial permit applications will be available starting in December 2017, Los Angeles anticipates that its equity program will be implemented as early as spring 2018.

Los Angeles has proposed having two windows for applicants. The first window will permit already-established medical cannabis dispensaries that have been compliant with city regulations. The second window will permit operations on a one-for-one basis: one permit for a general applicant for every permit for a qualified equity applicant (50% general and 50% equity permits). This one-for-one framework is recommended to continue for the life of the equity program, which is currently undetermined.

Los Angeles' Cannabis Social Equity Analysis also proposes a tiered framework (see Figure 20) of eligibility based on the direct and indirect impacts of cannabis law enforcement in an effort to make its equity program as inclusive as possible. Individuals who have been arrested for a cannabis crime (in California) are prioritized, followed by immediate family, then neighborhoods impacted by high enforcement levels, and finally neighborhood-endorsed applicants who are not otherwise qualified but provide a benefit (space, or assistance and capital) to a qualified applicant.

Figure 20. Los Angeles Equity Program Recommended Eligibility Tiers



*\*Must also qualify as low income*

Each tier of eligibility comes with a different suite of benefits or programming offered to the applicant as detailed in Figure 21 below. A Tier 1 applicant is offered access to all programming, including two benefits not offered to any other group: (i) a City-operated no-interest or low-interest loan program and (ii) an incubator/industry partnership program. Tiers 2 through 4 offer a proportionally reduced set of benefits.

**Figure 21. Los Angeles Equity Program Recommended Benefits by Tier**

		Recommended Benefits					
Tier	Eligibility Criteria	Priority Processing	Permitting Assistance	Business Training	Fee Waivers	Loan Program	Incubator/Partnership Program
Tier 1	Low-income resident of LA with a prior cannabis conviction in CA.	✓	✓	✓	✓	✓	✓
Tier 2	Low-income resident of LA with immediate family member convicted of a cannabis-related crime in CA.	✓	✓	✓	✓		
Tier 3	Low-income resident of LA who lives or has lived in eligible districts.	✓	✓	✓	*		
Tier 4	Non-qualifying applicants who are endorsed by a Neighborhood Council.	✓	✓	✓			

\*Eligible for fee deferral

Figure 22 provides details regarding proposed benefits offered to equity applicants.

<b>Figure 22. Los Angeles Recommended Cannabis Equity Program Benefits</b>	
<b>Benefit</b>	<b>Details</b>
Waived Fees	Permitting and inspection fees for qualifying applicants are waived.
No- or Low-Interest Loans	City-managed loan fund offering no or low-interest loans to eligible applicants.
Incubator/Industry Partnership (Type 1)	General applicants can provide space or capital to eligible applicant to be eligible for a tax rebate and potential qualification as Tier-4 equity applicant. Equity permittees would also receive tax rebate.
Incubator/Industry Partnership (Type 2)	Landlords with currently unpermitted cannabis operations (which is punishable by punitive fines) can receive fine waivers if they provide space to equity applicants.
Technical Assistance	Assistance with navigation of City permitting requirements and compliance.
City Property	City-owned property not eligible for affordable housing may be made available for free or reduced rent to equity applicants.
Conditional Approval	Equity applicants may be eligible for conditional approval of a permit without securing real estate for their operation.

In addition to equity program components for which only eligible permittees qualify, the Los Angeles report also recommends several general conditions or programs, such as workforce commitments and diversity plans from new permittees, community reinvestment, education programs, and expungement events in highly-impacted communities, which are further detailed in Figure 23 below.

<b>Figure 23. Los Angeles Recommended General Equity Components</b>	
<b>Benefit</b>	<b>Details</b>
Streamlining	A streamlined permitting structure and a suite of development standards will reduce operational downtime spent in application review, which disproportionately impacts low-income applicants.
Phased Permitting	After already-existing medical businesses are permitted (grandfathered), equity and general applicants will be permitted on a 1-for-1 basis (50% permits to equity applicants).
Education & Outreach	Outreach and educational programs targeted to potential applicants to spread awareness of the equity program.
Community Reinvestment	Reinvestment fund and programming earmarked for communities disproportionately affected by cannabis enforcement.
Expungement	Expungement events held in disproportionately affected communities to help with criminal expungement.
Workforce	All businesses (not just equity) must commit to 50% eligible workforce (low-income or impacted) and submit a diversity plan.

While the Cannabis Social Equity Analysis made the above equity programming recommendations, there has been no establishment of this program in legislation yet. As such, which combination of components are included in the final program remains to be seen, and there is no programmatic data currently available. Nonetheless, for the purpose of this report, Figure 24 includes a summary of these recommended equity programming components and a brief discussion of its key implementation considerations.

**Figure 24. Los Angeles Equity Program Considerations**

Equity Component	Key Consideration
Eligibility Tiers	<ul style="list-style-type: none"> <li>• LA's eligibility framework provides a progressive level of benefits depending on an applicant's direct or indirect impacts from cannabis enforcement.</li> <li>• Conviction-based eligibility includes a conviction anywhere in California, in recognition that disproportionate arrests and convictions happen in many places throughout the state and should not be limited to Los Angeles.</li> <li>• As the program is not yet established, which benefits are approved in the final program are unknown. If certain program elements are not approved, it may arbitrarily impact what each eligibility tier qualifies for.</li> </ul>
Community Reinvestment	<ul style="list-style-type: none"> <li>• Recommendations include the use of adult use revenue for community reinvestment programs. These programs have the potential to improve opportunity in neighborhoods most disproportionately impacted by the War on Drugs.</li> </ul>
Conditional Approval	<ul style="list-style-type: none"> <li>• This allows applicants who have not yet secured real estate to avoid non-operational downtime while their permit application is under review. This offers flexibility to applicants who do not have the resources to carry the cost of commercial rents while they are not operating business.</li> </ul>
Community Outreach & Education	<ul style="list-style-type: none"> <li>• These programs can educate potentially eligible individuals about equity programming. These can be targeted to neighborhoods and communities that were highly impacted by the War on Drugs.</li> </ul>
Expungement Events	<ul style="list-style-type: none"> <li>• Criminal records expungement can be held in communities that were highly impacted by the War on Drugs. Expungement can mitigate other financial barriers such as denial of business loans based on conviction history.</li> </ul>
Type-2 Incubators	<ul style="list-style-type: none"> <li>• To incentivize unpermitted operators to enter the legal market, landlords can receive waivers from significant punitive fines for illegal operations on their property if they offer free space or rent to eligible equity applicants.</li> </ul>
City Property	<ul style="list-style-type: none"> <li>• It is recommended that LA consider city-owned property that is not eligible for affordable housing as potential space for eligible applicants to operate for free or reduced rent.</li> <li>• This may not be feasible in San Francisco, which faces a similar affordable real estate crunch in a much smaller geographical footprint than LA. There are also legal implications to this policy that must be considered.</li> </ul>

## Massachusetts

Massachusetts approved adult-use cannabis on the November 2016 ballot and has not yet finalized its state licensing framework; although it anticipates issuing licenses in the summer of 2018. In contrast to California, local jurisdictions in Massachusetts are limited to zoning control over cannabis businesses while the state retains control over almost all licensing conditions and regulations. The primary equity provisions are currently comprised of language that was inserted into state legislation, requiring that certain equity provisions be included in the eventual state regulation. These are summarized in Figure 25 below.

**Figure 25. Required Equity Provisions in Massachusetts State Law**

Provision	Details
Agency Representation and Legislative Mandates	<ul style="list-style-type: none"> <li>The Cannabis Control Commission must include a certain number of commissioners and advisory board members with backgrounds or experience in social justice and minority business ownership.</li> <li>The Commission must adopt rules to promote participation in the cannabis industry by people from communities that have been disproportionately harmed by cannabis prohibition and enforcement.</li> <li>A subcommittee of the Advisory Board will develop recommendations on women, minority, and veteran-owned businesses, and local agriculture and growing cooperatives.</li> </ul>
Criminal Record	<ul style="list-style-type: none"> <li>People with past cannabis possession charges are eligible to have their records sealed and there will be an awareness campaign to inform the public.</li> <li>Past cannabis offenses will not disqualify an individual from working or owning a cannabis business (except sale to a minor).</li> </ul>
Priority Licensing	Priority licensing for applicants that promote economic empowerment in communities disproportionately impacted by cannabis arrest and incarceration.
Spending Priorities	Fees and revenue will go to a fund used for restorative justice, jail diversion, workforce development, industry technical assistance, and mentoring services.
Variable Co-op Fees	Cultivator license fees for cooperatives (co-ops) will be commensurate with cultivation size to ensure small farmers' access to licenses.
Data Collection and Study	<ul style="list-style-type: none"> <li>Data collection that tracks diversity in the industry is required.</li> <li>The Cannabis Control Commission must report annually on data collected and research any evidence of discrimination or barriers to entry.</li> <li>Additional licensing rules will be promulgated if evidence of discrimination or barriers to entry is found.</li> </ul>

The Massachusetts Cannabis Control Commission is also doing statewide listening sessions with the public to solicit comments and concerns about the eventual regulatory framework. Equity-focused organizations and interested lawmakers have spoken at these sessions to encourage the Commission to implement equity programming and frameworks.

## Denver

The first retail sales of adult-use cannabis in the United States began in Denver on January 1, 2014. Denver accounts for 40% of the state of Colorado's cannabis retailers and reached \$288.3 million in sales in 2016.<sup>81</sup> Although Denver does not have an equity program that explicitly promotes equitable ownership and employment in the cannabis industry, it nevertheless can provide important insights as a city that is much farther ahead in the permitting framework than San Francisco.

Denver regulates the number of permits, manner (i.e., the sales conditions), zoning, and hours of adult-use cannabis. When adult-use cannabis became legal, Denver allowed all existing medical cannabis businesses to apply for a permit if they were permitted by July 2014. In 2016, Denver capped the number of adult use permits to existing and pending applications. As of January 1, 2017, the City of Denver has issued 429 adult-use permits and 684 medical permits across 484 unique locations.<sup>82</sup>

Denver requires that permit applicants submit a Community Engagement Plan, which details commitments from the business to provide a positive impact in the community. The engagement plan is not specific to equity, but could include an equity component if the business owner so chose. Plans often focus on charitable efforts like food drives, street clean up, or community gardens. The permitting authority in Denver has no enforcement authority to compel accountability to its community engagement plan.

As Denver is multiple years into permitting, they are experiencing secondary impacts of permitting that should be considered by other cities who are just beginning. Figure 26 below summarizes Denver's key lessons learned in permitting cannabis businesses for the past three years that should be considered in San Francisco's implementation of adult-use cannabis and its equity program:

**Figure 26: Denver Adult-Use Permitting Lessons Learned**

Type	Lesson Learned
Accountability	While Denver requires community engagement plans, it has no enforcement authority to hold permittees accountable to execute the plans.
Financial	It is important to understand how much revenue a city will expect to see and how it can be used, if restricted. Cities must plan for how funds can and cannot be used.
Data	Data collection should be built into the system from the beginning, baselines established early, and efforts should be made to collect data along the entire permitting process. Before and after data is critical to understand the economic impact of the cannabis industry.
Education and Awareness	The public should be educated about what is allowed and what is not in the cannabis industry. Youth and public education should be built into the program from the start and be robust.

<sup>81</sup> The Denver Collaborative Approach: Leading the way in municipal marijuana management (2017 Annual Report).

<sup>82</sup> Ibid.

	Cities should try to understand who is not participating in the legal market and make robust efforts to engage this community.
Social Use	Consumption in private and members-only lounges, which do not sell cannabis but allow its use, is an issue that surfaces with legal cannabis, and how a city wants to permit these establishments should be considered.

### Other State Equity Programs

Other states that have licensed medical cannabis have considered or implemented provisions to promote equitable participation in the industry. These equity components are summarized in Figure 27 below.

**Figure 27: Summary of Equity Components for Medical Cannabis in Other States**

State	Equity Component
Florida	Once the state's medical cannabis patient registry reaches 250,000, three more cultivation licenses will be issued, one of which will be designated for the Florida Black Farmers and Agriculturists Association.
Maryland	Maryland initially issued 15 cultivation licenses but was sued when none were issued to minority-owned applicants. The State Assembly considered but did not act upon a bill that would have allowed seven additional cultivation licenses in the state, all designated for minority-owned companies.
Ohio	State law requires that 15% of licenses go to businesses owned by four identified minority groups.
Pennsylvania	Cultivation and dispensary applicants must submit diversity plans that include how they promote racial equity through ownership, employment, and contracting. The state must also help minority groups learn how to apply for licenses.
West Virginia	State law requires that regulators encourage minority-owned businesses to apply for growing licenses.

## VI. Findings and Recommendations

The following section seeks to provide recommendations<sup>83</sup> regarding policy options that could (A) foster equitable access to participation in the industry, including promotion of ownership and stable employment opportunities in the industry (B) invest City tax revenues in economic infrastructure for communities that have historically been disenfranchised, (C) mitigate the adverse effects of drug enforcement policies that have disproportionately impacted those communities, and (D) prioritize individuals who have been previously arrested or convicted for marijuana-related offense. Specifically, this section provides key findings informed by this report's *Equity Analysis*, *Barriers to Entry*, and *Equity Program Benchmarking* sections. The recommendations incorporated are meant to inform policymakers as the City embarks on developing an Equity Program.

Green bullets represent potentially advantageous factors, red bullets indicate potential challenges, and black bullets represent neutral considerations.

<b>ELIGIBILITY</b>	<b>Finding 1: Eligibility factors should be focused on specific populations, namely, those that have been disproportionately impacted by cannabis prohibition during the War on Drugs, and criteria should be supported by data.</b>	
	<p><b>Recommendation:</b></p> <p>The City's Equity Program should set specific criteria that define the population served. Criteria should be data driven to ensure the City meets its goal to prioritize individuals who have been previously arrested and convicted of cannabis-related offenses, or disproportionately impacted by the War on Drugs.</p> <p>Based on data analysis in this report, the City should consider including the following eligibility criteria:</p> <ol style="list-style-type: none"> <li>1) Conviction history associated with cannabis related offense(s);<sup>84</sup></li> <li>2) Immediate family member with a conviction history associated with cannabis related offense(s);</li> </ol>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Limiting the eligible group allows an affected group to receive higher-value benefits.</li> <li>• Rationale for eligibility criteria must be clear and justifiable, preferably with data, to minimize confusion among groups not included.</li> <li>• Eligibility should, at a minimum, require a cannabis-related arrest and conviction, and should be consistent with the State's conviction history guidelines.</li> <li>• The City will have to decide on whether it should limit convictions to within the City, the Bay Area, the state of California, or anywhere in the United States.</li> </ul>

<sup>83</sup> These recommendations should be subject to City Attorney review prior to implementation.

<sup>84</sup> The City should consider making the following serious criminal convictions not eligible: offenses that include violent felony conviction(s); serious felony conviction(s); felony conviction(s) with drug trafficking enhancements; felony conviction(s) for hiring, employing or using a minor to transport, carry, sell, give away, prepare for sale, or peddle any controlled substance to a minor; or sell, offer to sell, furnish, offer to furnish, administer, or give away a controlled substance to a minor.

<p>3) Low Income Status,<sup>85</sup>  4) Residency Requirement;  5) Ownership Requirements; and if appropriate  6) Geographic Location<sup>86</sup></p>	
<p><b>Recommendation: Eligibility Tiers</b></p> <p>The City should create a tiered structure to provide proportional benefits necessary for each tier's success.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Tiered eligibility can offer progressively more valuable services to the most-impacted (directly and indirectly) individuals and mitigate bottlenecks in one-to-one licensing frameworks.</li> <li>• Ensures that applicants with a cannabis conviction history directly benefit from the program.</li> <li>• Ensures limited resources can be targeted most effectively.</li> <li>• Conviction-based eligibility could include convictions within the state, recognizing the impacts of convictions on an individual, regardless of location of arrest/conviction.</li> <li>• More complex eligibility criteria require increased program administration resources.</li> </ul>
<p><b>Recommendation: Ownership</b></p> <p>The City should consider requiring ownership structures of equity applicant operators to reflect a certain percentage. This structure should set a baseline that ensures applicants realize benefits from ownership, including decision making power, but be flexible enough to allow for a variety of ownership structures.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Requiring a percentage of ownership and/or control ensures equity operators are realizing the financial benefits of their operations.</li> <li>• Los Angeles suggested 51%+, however, requiring 51%+ ownership may have an unintended impact of lessening outside investor interest and, therefore, may prove to be a capital barrier for equity applicants.</li> </ul>

<sup>85</sup> Low income is defined as at or below 80% San Francisco's area median income as defined by California Department of Housing and Community Development.

<sup>86</sup> The disadvantaged populations identified in the *III. Equity Analysis* section of this report may serve as an appropriate metric for identifying workforce populations, however, if there is an interest in determining which communities have been disproportionately impacted by the War on Drugs over a sustained period of time, we would recommend further analysis.

PERMITTING	<p><b>Recommendation: Residency</b></p> <p>The City should consider creating a residency requirement to ensure that current and former San Francisco residents who have experienced over policing and have difficulty accessing living wage jobs are the first to benefit from this program.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Because of the size of San Francisco’s market, and in the interest of ensuring a tempered rollout of new activity, prioritizing residency will allow current and former residents to benefit first from this opportunity;</li> <li>• Los Angeles requires residency for no less than 5 accumulative years, with no less than 70% meeting this requirements, and Oakland requires residency for no less than 10 years.</li> </ul>
	<p><b>Finding 2: Adult-use cannabis permitting should ensure that equity applicants have sufficient opportunity to take advantage of the program and are not crowded out by more well-resourced applicants. It should incentivize ongoing support for Equity applicants, if necessary.</b></p>	
	<p><b>Recommendation: Prioritization</b></p> <p>The City should consider a prioritized permit process to assist Equity Applicants.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• A faster approval process ensures applicants are not crowded out by more well-resourced applicants.</li> <li>• Permitting conditions could prevent well-resourced competitors from crowding out potential equity applicants.</li> <li>• Prioritization approaches need to be considered in the context of overall tiering and phasing strategies to ensure desired outcomes for equity applicants.</li> </ul>
<p><b>Recommendation: Phasing</b></p> <p>The City should consider permitting phases that layer frameworks in succession. The City should complete an analysis on each phase and this analysis should advise policy adjustments to the Equity Program framework, permitting process, and geographic distribution for the next phase.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• As currently proposed, in 2018, only 1) Equity Applicants, 2) existing operators, and 3) operators who were operating in compliance with the Compassionate Use Act but were forced to cease activities due to federal enforcement, are eligible to apply for permits.</li> <li>• Existing medical businesses should be permitted in initial permitting phase(s) to ensure continued access to medicinal cannabis for patients.</li> <li>• An overly complex program could delay permit issuance.</li> <li>• In a one-for-one model, there is potential for a bottleneck in licensing if insufficient</li> </ul>	

	numbers of equity-eligible individuals apply.
<p><b><u>Recommendation: Ratios</u></b></p> <p>The City should, at a minimum, mandate a requisite number/percentage of equity applicants to new applicants during permitting phases.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>As currently proposed, new general applicants are not eligible for permits in 2018, with the exception of businesses that were previously shut down through federal enforcement. As such, only Equity Applicants will be eligible for new permits in year one.</li> <li>Both Oakland and Los Angeles have implemented or proposed a one-for-one licensing framework during the initial permitting phase that ensures 50% equity applicant participation to every new business.</li> </ul>
<p><b><u>Recommendation: Provisional Approval</u></b></p> <p>For Equity Applicants, the City should allow for provisional approval of a permit prior to the applicant securing real estate for their operation.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>Provisional approval of a permittee could help the applicant overcome potential financial barriers to entry by providing investors with more certainty to back that applicant and incentivize investors to provide adequate capital for a physical location.</li> </ul>
<p><b><u>Recommendation: CB3P for Retail Applicants</u></b></p> <p>The City should consider extending the Community Business Priority Processing Program to Equity Applicants, specifically retail applicants, to allow for a fast tracked and streamlined Conditional Use review process.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>The CB3P program would provide applicants with time savings and more clear timelines.</li> </ul>
<p><b><u>Recommendation: Amnesty Program</u></b></p> <p>The City should consider developing pathways, such as an amnesty program, to encourage existing nonconforming businesses - many of which are small operators who may qualify as Equity Applicants - to transition to the legal market in 2018.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>Ensuring continued operation could mean the operator faces fewer barriers to enter the regulated market.</li> </ul>

**Finding 3: Incubator programs are designed to incentivize partnerships between entrepreneurs or established cannabis operators and equity applicants, helping to achieve equity goals at no cost to the City.**

**Recommendation: Incubator Programs**

The City should consider including a flexible incubator program that allows Equity Applicants to partner with operators who wish to further the City's equity goals. Such partnerships could include combinations of workforce, financial, capital, real estate, and technical assistance provided by non-equity applicants.

**Considerations:**

- Incubator options that allow employers and cannabis operators flexibility to determine appropriate program offering(s) can incentivize private sector investment in equity goals. (e.g., real estate and/or mentoring; landlords allowing cannabis businesses on their property)
- Accountability measures must be taken to ensure parties conform to agreements and equity outcomes are achieved.
- Equity incubators incentivize knowledge and resource sharing with Equity Applicants at no cost to the City.
- Oakland has faced criticism that requiring existing businesses to form incubators runs the risk of "hollowing out the middle," where the market shifts toward one that consists only of large, well-funded businesses and equity businesses, a model that could ultimately crowd out equity businesses.

**Recommendation: Incubator Program Priority Processing**

The City should consider extending priority processing to Incubator Program applicants.

**Considerations:**

- Priority processing will allow the City and the incubated operator to realize the equity benefits faster.
- Non-equity existing operators that serve as "incubators" could be eligible to receive priority permit review and issuance.
- Prioritization approaches need to be considered in the context of overall tiering and phasing strategies to ensure desired outcomes for equity applicants.

**Recommendation: Success Metrics**

Metrics should be incorporated into the Equity Program to ensure that operators are

**Considerations:**

- Operators could use Equity Applicants to enter the market in 2018, and provide them with no meaningful benefits.

	<p>helping move Equity incubator operators towards success.</p>	
<p>COMMUNITY REINVESTMENT</p>	<p><b>Finding 4: Adult-use cannabis revenues can be dedicated to community reinvestment programming that can help to address inequities in cannabis enforcement and lasting impacts to communities of the War on Drugs.</b></p>	
	<p><b>Recommendation:</b> <i>Creation of a Community Reinvestment Fund</i></p> <p>The City should consider creating a Community Reinvestment Fund to allocate cannabis tax revenue and focusing investments on those communities disproportionately affected by cannabis enforcement. Programming may include restorative justice, jail diversion, and improving the health and wellbeing of communities that have been affected by the War on Drugs.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Community reinvestment offers neighborhood-wide and neighbor-directed benefits to those who were most disproportionately impacted by cannabis enforcement but are not participating directly in the cannabis economy.</li> <li>• A cannabis tax has not yet been approved by San Francisco voters, and there is little information available on revenues and spending priorities.</li> <li>• Cannabis tax revenues may be an inconsistent source of revenue until the market stabilizes, which could take a few years.</li> </ul>
	<p><b>Recommendation:</b> <i>Anti-Stigma Campaign</i></p> <p>The City should consider committing a portion of funding to build on the Department of Health’s awareness campaign to further acknowledge the impact of the War on Drugs and the stigma that remains in certain communities.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Reducing stigma could help operators better access capital, real estate, and technical assistance.</li> <li>• Community awareness through this campaign can help calm fears that have been developed over decades of misinformation and scare tactics used during the War on Drugs.</li> <li>• In developing a more regular lexicon to use for the regulated activity, City should avoid Drug War language including “crackdown,” and “Black market.”</li> </ul>
<p><b>Recommendation:</b> <i>Funding for Community Reinvestment</i></p> <p>The Office of Cannabis should continue to coordinate with City partners, including the Office of Economic and Workforce Development and the Mayor’s Office, to continue advocacy for funding through the Governor’s Office of Business and Economic</p>	<p><b>Considerations</b></p> <ul style="list-style-type: none"> <li>• State funding can enhance and supplement the City’s ability to meet local equity goals.</li> </ul>	

	<p>Development community reinvestment grants program.</p>	
	<p><b>Recommendation: Equity Plan</b></p> <p>The City should consider requiring applicants to submit, as part of their Community Benefit Agreement, an Equity Plan that describes how the applicant's business supports the Equity goals of the City.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• This encourages business to think about Equity in the context of it being a community benefit in their surrounding neighborhood, and allows them to consider equity more broadly in the context of their business model.</li> </ul>
	<p><b>Recommendation: Streamline Expungement Opportunities</b></p> <p>Community reinvestment programming should include streamlined expungement events held in neighborhoods that have been disproportionately-impacted by the War on Drugs.</p>	<p><b>Considerations</b></p> <ul style="list-style-type: none"> <li>• Bringing events to communities enhances overall outreach for the equity program and reduces barriers to navigating the expungement process.</li> <li>• Such events should be done in coordination with the Public Defender's Office, the Courts, and other relevant partners, and they should provide clients with an expedient expungement process.</li> </ul>
<p><b>WORKFORCE DEVELOPMENT</b></p>	<p><b>Finding 5: All cannabis operators should promote equitable employment opportunities for those communities harmed by the War on Drugs. These opportunities should include hiring formerly-incarcerated individuals, hiring in targeted neighborhoods, and paying living wages.</b></p>	
	<p><b>Recommendations: Leverage Existing Programs</b></p> <p>The City should leverage eligible<sup>87</sup> existing workforce programs to provide pathways to employment in the legal cannabis industry for individuals engaged in street-level drug commerce.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Length of program would need to be balanced, making sure participants are job ready while meeting their need to enter the workforce quickly.</li> <li>• Accelerated training programs, similar to the models that allow for flexible approaches to certification should be leveraged to expedite and prioritize employment opportunities for persons who meet the equity permit criteria.</li> <li>• Cannabis industry workforce program could be modeled after existing OEWD Reentry Services Program.</li> <li>• Leveraging existing programs offers people opportunities to build skills for other industries as well.</li> </ul>

<sup>87</sup> The City should recognize that there are some community based organizations that rely on federal funding and may therefore be unable to provide services due to threat of federal enforcement.

<p><b>Recommendations:</b> <i>Expand Workforce Curriculum</i></p> <p>The City should consider expanding curriculum to support new workforce and/or entrepreneurship services for street level cannabis participants across industries.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• The City's approach to curriculum development through GoSolarSF could be used as a model.</li> <li>• This would require engagement and training of new CBOs, in basic workforce knowledge.</li> <li>• There may be limited potential for program growth due to considerations and restrictions around co-mingling cannabis workforce funding with other sources.</li> <li>• This approach would also take time and creating new programming can be costly.</li> <li>• There is a potential lack of data related to industry workforce projections, making it difficult to scope program size and funding.</li> </ul>
<p><b>Recommendations:</b> <i>Workforce Fairs</i></p> <p>The City should support a series of workforce fairs with partners including Invest in Neighborhoods, Small Business Commission and others to provide outreach, education, and ownership support.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Bringing events to the community can assist with outreach and help build trust with City agencies.</li> </ul>
<p><b>Recommendation:</b> <i>Training Personnel with Industry Experience</i></p> <p>The City should consider hiring training personnel who are experienced in the industry transitioned from the unregulated market to regulated cannabis industry to ensure curriculum relevance and applicability.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Persons with experience in the unregulated and regulated cannabis market may be well positioned to advise individuals looking to join the regulated market.</li> <li>• These positions could create additional workforce opportunities for persons impacted by the War on Drugs.</li> <li>• Much of the City's workforce training partners make independent personnel decisions.</li> <li>• The need for official industry knowledge could be addressed via future RFP's</li> </ul>
<p><b>Recommendation:</b> <i>Incorporate Local Hire &amp; Refine Requirements</i></p> <p>The City should incorporate local hire requirements, and should consider requiring or incentivizing employers to prioritize</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Given that not all persons who were disproportionately impacted by the War on Drugs are ready to start their own cannabis business, ensuring they have</li> </ul>

<p>applicants from then disadvantaged communities.<sup>88</sup></p>	<p>meaningful access to workforce opportunities in the Cannabis Industry is critical.</p> <ul style="list-style-type: none"> <li>• Refining Local Hire requirements to target specific areas of the City could allow us to see more persons from disenfranchised communities enter the workforce pipeline.</li> <li>• The City would need to ensure people are hired for full time, fair wage jobs and not just used to obtain the permit.</li> <li>• Cannabis businesses could be required through their CBA's to participate in First Source beyond entry-level positions, providing upwardly mobile career pathways in addition to incorporating mid-level placements.</li> <li>• A large amount of resources and infrastructure is required by the City for enforcement/reporting, therefore, this would require a funding source as well as time to build the internal capacity.</li> <li>• Local Hire and any requirements related to hiring from specific location may add technical human resource burdens to operators when the City should seek to reduce technical burdens.</li> </ul>
<p><b>Finding 6: Existing City legislation can be leveraged to expand equitable employment opportunities.</b></p>	
<p><b>Recommendations: Education on Fair Chance Ordinance</b></p> <p>The City should proactively educate all cannabis businesses on the provisions of San Francisco's Fair Chance Ordinance (FCO) that regulates the use of arrest and conviction records in employment decisions.<sup>89</sup></p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Since the City has determined Prop 47 convictions are "low priority" this would help to ensure those convictions are not used to deny individuals meaningful employment.</li> </ul>
<p><b>Recommendation: Remove Cannabis Conviction Workforce Barriers</b></p>	<p><b>Considerations:</b></p>

<sup>88</sup> As described in Section III, Subsection E. Disadvantaged Communities.

<sup>89</sup> See Appendix D. Existing Resources.

	<p>The City should look at legislating the removal of employment barriers based on cannabis-related convictions across all sectors.</p>	<ul style="list-style-type: none"> <li>• Adding this language to Article 49 of the Police Code (the Fair Chance Ordinance) would help ensure that conduct which is now legal under Proposition 64 does not continue to be a barrier to employment.</li> </ul>
<p>FINANCIAL &amp; CAPITAL ACCESS</p>	<p><b>Finding 7: Individuals and neighborhoods that have been disproportionately targeted for drug enforcement and consequently disadvantaged socio-economically may have a particularly difficult time overcoming financial barriers.</b></p>	
	<p><b>Recommendation: Existing Operator Participation</b></p> <p>The City should incentivize operators that may receive a temporary permit to operate an adult-use business to contribute to the City's equity goals. Any commitments made by operators should remain in place until the operator's Article 16 Community Benefits Agreement is approved.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Proactive participation by existing operators will help the City move towards equity goals before mandates meant to further equity are implemented.</li> </ul>
	<p><b>Recommendation: Access to Banking</b></p> <p>The San Francisco Treasurer and Tax Collector should continue to work closely with the State Treasurer to provide more opportunities for applicants to access banking services, and should play a brokering role with California credit unions to teach/partner with San Francisco based credit unions so that they may serve as a resource to San Francisco based operators.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Mitigates financial barriers</li> </ul>
	<p><b>Recommendation: Consideration for Municipal Bank</b></p> <p>In line with File No. 170448, <i>Urging the Office of the Treasurer and Tax Collector to convene a Municipal Public Bank Task Force</i>, the City should continue to move forward expeditiously with the review of a municipal banking policy to ensure applicants have the opportunity to be provided equitable and transparent access to capital in the absence of federally regulated banks participation.</p>	<p><b>Considerations</b></p> <ul style="list-style-type: none"> <li>• Would create access to banking for the industry as a whole.</li> <li>• Money generated from fees and interest could be used to subsidize loans to equity applicants.</li> </ul>

<p><b><u>Recommendation: Fee Waivers</u></b></p> <p>The City should consider waiving application, permit, and inspection fees for some or all equity applicants in their first year to lower financial barriers of entry.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>• There would be substantial cost associated with this on behalf of departments.</li> <li>• “Fairness” for entrepreneurs from disenfranchised communities starting non-cannabis businesses and not receiving such a waiver may become a concern in the business community.</li> </ul>
<p><b><u>Recommendation: Reducing Social Stigma</u></b></p> <p>Recognizing that equity permit holders might have limited access to social and financial capital, which could further be impacted by the social stigma associated with cannabis use and sales, the City should invest in a campaign to acknowledge the impact of the War on Drugs and the stigma and bias associated with both users and businesses.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>• The City’s public information campaign could be used to address multiple issues, including facts about the health impacts of cannabis use as well as the racialized history of prohibition and enforcement.</li> </ul>
<p><b><u>Recommendation: Loans</u></b></p> <p>The City should create a fund that could receive funds from Equity Incubator applicants, and use this fund to support Equity Operators.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>• This fund can provide a source of revenue prior to the implementation of a cannabis specific tax.</li> <li>• If needed, it could take time to find a qualified CBO that has no other federal conflicts to administer such a program or internal capacity and staffing would need to be developed.</li> </ul>
<p><b><u>Recommendation: Setting Tax Rate<sup>90</sup></u></b></p> <p>In order to address the barrier that well-funded businesses may be more capable of building in financial contingencies for things such as unforeseen tax liabilities, the City should consider tax policies that mitigate the tax burden on equity applicants.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>• Contemplating a tax rate that mitigates the tax burden on equity applicants ensures they remain competitive in a market that has better resourced operators.</li> <li>• Higher tax rates can increase the effective price of cannabis causing some consumers to shift spending to other goods or buy their cannabis outside of the regulated market.</li> </ul>

<sup>90</sup> See Appendix E Taxation: State Structure & Review of Other Jurisdictions’ Tax Structures

TECHNICAL ASSISTANCE	<p><b>Finding 8:</b> New cannabis businesses may face technical knowledge-based gaps around an industry that has been historically underground. Technical barriers can include aspects of cannabis development as well as business planning and operations. These barriers are more difficult to navigate for lower-income individuals who may not be used to working in regulated environments and/or unable to afford specialized consulting or technical assistance.</p>	
	<p><b>Recommendation:</b> <i>Create a Simple &amp; Transparent Application Process</i></p> <p>The City should create a permitting process that is simple, transparent, and employs technological solutions to help speed and make applicants aware of process from day one.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• A simple intake and application process will make it easier for the applicant to know if they are eligible for a permit, as well as be better informed of what the path towards becoming a permitted business may entail.</li> <li>• To support this, a section for cannabis businesses can be added under Businesses Type in the Permit Locator of the San Francisco Business Portal.</li> </ul>
	<p><b>Recommendation:</b> <i>Leverage Existing Resources</i></p> <p>The City should steer Equity Program participants in need of business, compliance, and industry-specific technical assistance and mentorship to the various eligible City entrepreneurship and workforce programs currently available, many of which are referred to in the "Existing Resources" section.<sup>91</sup></p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Leveraging of existing entrepreneurship and workforce programs minimizes up front cost and resource needs for the Office of Cannabis.</li> </ul>
<p><b>Recommendation:</b> <i>Matching Opportunities</i></p> <p>The City should create a program to match small operators, equity applicants, and interested landlords.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Leveraging existing relationships with the landlord community, educating them on the regulatory structure could create more real estate opportunities.</li> <li>• Matching small operators, including equity applicants, creates potential incubator partnership opportunities, and where/when allowed, co-op partnership opportunities.</li> </ul>	

<sup>91</sup> See Appendix D, Existing Resources

<p><b><u>Recommendation:</u></b> <i>Partner with Local Non-Profits</i></p> <p>The City should also consider partnering with local consultants and non-profit organizations to provide cannabis specific business consulting, such as business plan workshops, and regulatory compliance assistance.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>• Use of contracted organizations minimizes the need to hire additional city staff resources while leveraging local industry expertise.</li> <li>• Contracting for technical expertise will require up-front funding before adult use tax revenue is available</li> <li>• Many business-service-providing nonprofits are funded and/or chartered by the Federal government and will be unable to provide services - substantial time may be needed to develop new CBO partners to create programming in this space.</li> </ul>
<p><b><u>Recommendation:</u></b> <i>Staffing in the Office of Cannabis</i></p> <p>The Office of Cannabis should assign a staff member to serve as the primary program coordinator for the program.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>• This staff member will coordinate with City departments, including the Human Rights Commission and the Office of Economic and Workforce Development.</li> <li>• Applicants who meet Equity criteria will receive assistance from this person in completing their application and navigating City processes through coordinated efforts of this program coordinator and staff in the Office of Small Business.</li> </ul>
<p><b><u>Recommendation:</u></b> <i>Creation of Curriculum</i></p> <p>The City should encourage local academic institutions such as City College to expeditiously create cannabis specific workforce and entrepreneur training opportunities for San Francisco residents, particularly Equity Applicants; at free or reduced costs.</p>	<p><b><u>Considerations:</u></b></p> <ul style="list-style-type: none"> <li>• The existing partnership between the City and City College is one that should ensure that San Francisco's residents have access to impactful and meaningful curriculum.</li> </ul>

<b>CRIMINAL HISTORY</b>	<b>Finding 9: The War on Drugs has disproportionately affected communities of color. Despite Proposition 64, which allows applicants who have been convicted of drug offenses to be eligible for a cannabis business license in California, a criminal history can limit an individual's ability to gain employment, apply for government assistance, and/or obtain a loan, thereby creating barriers to entry into the adult-use cannabis market.</b>	
	<p><b>Recommendation: Streamline Expungement Opportunities</b></p> <p>The City should ensure community reinvestment programming includes expungement events held in disproportionately-impacted neighborhoods:</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Bringing events to communities enhances overall outreach for the equity program and reduces barriers to navigating the expungement process.</li> <li>• Such events should be done in coordination with the Public Defender's Office, the Courts, and other relevant partners, and they should provide clients with an expedient expungement process.</li> </ul>
	<p><b>Recommendation: Navigation to Clean Slate Program</b></p> <p>The application process within the Office of Cannabis should serve as an additional entry point into the San Francisco Public Defender's Clean Slate Program.<sup>92</sup></p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Expungement can mitigate some financial barriers to entry into adult-use cannabis.</li> </ul>

<sup>92</sup> See Appendix D, Existing Resources.

<b>STAKEHOLDER ENGAGEMENT</b>	<b>Finding 10: Arrest and conviction of cannabis offenses has disproportionately affected communities of color, eroding trust between these communities and law enforcement/government. These communities may be wary of formally entering an industry in which they have been historically targeted for criminal enforcement.</b>	
	<p><b>Recommendation: <i>Creation of Culturally Sensitive + District Specific Outreach</i></b></p> <p>The City, in consultation with each Supervisor, by creating district specific, culturally sensitive outreach.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Rebuilds trusts between equity communities and the government.</li> <li>• Surfaces opinions regarding what is effective and not effective from various stakeholders.</li> <li>• Inform regulators' understanding about the unique operating environment for San Francisco cannabis entrepreneurs.</li> <li>• This outreach increases the chances of program success by recognizing opportunities to proactively engage stakeholders in a familiar environment.</li> <li>• Advisory boards or commission can add additional layers of bureaucracy.</li> <li>• Upfront need of program resources to perform outreach and respond to questions from the public.</li> </ul>
	<p><b>Recommendation: <i>Create Informal Relationships</i></b></p> <p>The City should create informal relationships (e.g., listening sessions) between regulating entities and a large stakeholder group that includes equity-eligible community members.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• The relationships may help to build trust in government.</li> <li>• Creating relationships built on trust between regulatory authorities and the community is necessary for the success of the program and for effective regulation.</li> </ul>
<p><b>Recommendation: <i>Create Formal Relationships: Task Force Membership</i></b></p> <p>The City should create formal relationship between regulating entities and stakeholders that represent equity eligible communities. To that end, the City should consider amending the San Francisco Cannabis State Legalization Task Force membership to provide membership to representatives from neighborhoods and communities with high concentrations of eligible individuals. These representatives should have a cannabis related conviction history and/or should work</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• The relationships may help to build trust in government.</li> <li>• Creating relationship built on trust between regulatory authorities and the community is necessary for the success of the program and for effective regulation.</li> <li>• Advisory boards or commission can add additional layers of bureaucracy and the more formal nature doesn't always lend itself to relationship/trust building.</li> </ul>	

<p>PUBLIC AWARENESS &amp; EDUCATION</p>	<p>with populations that have cannabis related conviction histories.</p>	
	<p><b>Finding 11: An Equity Program is effective if cities and states conduct the necessary public outreach such that potentially eligible persons are aware of the program and its benefits as early as possible.</b></p>	
	<p><b>Recommendation: Program Education &amp; Outreach</b></p> <p>The City should deploy outreach and educational campaigns that spread awareness of the Equity Program across the city but also target neighborhoods and communities with high concentrations of eligible individuals.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Mitigation of ambiguity around what is legal at the local, state, and federal levels.</li> <li>• Allows for mitigation of not knowing what opportunities are available.</li> <li>• Allows for mitigation of distrust between law enforcement and those communities disproportionately affected by cannabis arrests and convictions.</li> <li>• This effort would require upfront resources to perform outreach and respond to questions from the public.</li> <li>• The outreach should contemplate concern from the community about oversaturation of cannabis related information exposure to youth.</li> </ul>
	<p><b>Recommendation: Culturally Sensitive Outreach</b></p> <p>Supervisors should participate in creating district specific community and culturally sensitive outreach strategies, to ensure robust, thorough and multicultural outreach and engagement throughout San Francisco.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Rebuilds trusts between equity communities and the government.</li> <li>• Surfaces opinions regarding what is effective and not effective from various stakeholders.</li> <li>• This outreach increases the chances of program success by recognizing opportunities to proactively engage stakeholders in a familiar environment.</li> <li>• Upfront need of program resources to perform outreach and respond to questions from the public.</li> </ul>
<p><b>Recommendation: Immediate Outreach</b></p> <p>Outreach to potential applicants should begin as soon as a program is established and prior to when Article 16 applications are accepted.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Immediate outreach ensures equity-eligible applicants are not crowded out.</li> </ul>	

<p>DATA COLLECTION &amp; ACCOUNTABILITY</p>	<p><b>Finding 12: All peer jurisdictions who have implemented adult-use cannabis require data collection to understand the impact of the industry. Oakland and Los Angeles propose tracking data on general and equity applicants on a regular basis to measure the success of its Equity Program.</b></p>	
	<p><b>Recommendation:</b></p> <p>The City should incorporate data collection requirements into the application and reporting processes to track that all components of an Equity Program and to measure its impact on the community.</p> <p>The City should consider incorporating the following data metrics into the application, permitting and permit renewal process:</p> <ul style="list-style-type: none"> <li>• Number of equity applicants to apply           <ul style="list-style-type: none"> <li>▪ Types of drug related offenses (aggregate)</li> <li>▪ Income status (aggregate)</li> <li>▪ Race (aggregate)</li> <li>▪ Ethnicity (aggregate)</li> <li>▪ Gender (aggregate)</li> <li>▪ Sexual identity (aggregate)</li> <li>▪ San Francisco residency status</li> <li>▪ Ownership structure</li> </ul> </li> <li>• Total percentage of ownership by and employment of San Francisco residents</li> <li>• Workforce characteristics           <ul style="list-style-type: none"> <li>▪ Total number of employees</li> <li>▪ Number of local employees</li> <li>▪ Percent of hours of local employees               <ul style="list-style-type: none"> <li>○ Full time</li> <li>○ Part time</li> </ul> </li> <li>▪ Percent of hours from employees placed through First Source</li> <li>▪ Other factors that align with mandated or recommended workforce guidelines.</li> </ul> </li> </ul> <p>Further, to ensure we closely track policing associated with legalization, the City should track and report out on arrest rates, locations of arrests, gender, ethnicity, race, etc.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Data gathering components should be built into the Equity Program from the outset and baselines should be established early.</li> <li>• Data should be collected along the entire licensing and monitoring process.</li> <li>• Quality data (e.g., demographic data) is critical for establishing the case for pre- and post-adult use analyses.</li> <li>• The source of data, particularly law enforcement data, could span various systems and agencies across the City, potentially adding risk to data reliability and accuracy and requiring coordination.</li> </ul>

MODIFICATION & COURSE CORRECTION	<p><b>Recommendation: <i>Require Regular Reporting</i></b></p> <p>The City should require a follow-up report from appropriate agencies including the Office of Cannabis and Human Rights Commission. These reports should analyze the implementation and outcomes of the Equity Program, permitting, and geographic distribution and make programmatic recommendations for 2019.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Status and outcome reports will be critical for course correction and adjusting the Equity Program to meet community needs.</li> </ul>
	<p><b>Finding 13: Without accountability mechanisms in place in an Equity Program, any equity commitments made by permit holders are unenforceable.</b></p>	
	<p><b>Recommendation: <i>Enforcement of CBAs</i></b></p> <p>The City should ensure that commitments (e.g., real estate by incubator applicants) made by permittees must be enforceable by making compliance with community benefits agreements a permit condition that when not followed, leads to a fine, permit suspension or ultimate revocation. The City should regularly audit community benefit agreements to ensure compliance.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Accountability mechanisms should be clearly identified during the licensing application phase.</li> <li>• Equity outcomes could be tied to community benefit commitments.</li> <li>• The auditing of CBA's will require significant staff time and resources.</li> </ul>
<p><b>Finding 14: Course correction mechanisms in an Equity Program can mitigate unintended consequences and allow cities to remain flexible in an emerging adult-use cannabis industry.</b></p>		
<p><b>Recommendation: <i>Course Correction</i></b></p> <p>The City should plan to mitigate unintended consequences (e.g., worsening of racial disparities in cannabis offenses) through policy implementation changes over time and course-correction mechanisms needed to further equity goals:</p> <p>Examples of course-correction mechanisms include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>• Licensing in phases (e.g., equity balance initial phases before unrestricting licensing)</li> <li>• Implementation of eligibility requirements in phases to ensure equity outcomes are being met</li> </ul>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Licensing in phases allows for time to learn and adjust before larger-scaled implementation.</li> <li>• Formal relationships between regulatory agencies and a large stakeholder group can uncover key challenges and needed adjustments as well as build trust in an evolving regulatory environment.</li> <li>• An evolving licensing and regulatory framework could cause confusion and/or mistrust amongst stakeholders.</li> <li>• A formal stakeholder group can add bureaucracy and drown out smaller voices.</li> </ul>	

	<ul style="list-style-type: none"> <li>• The creation of formal relationships between regulatory agencies and a large stakeholder group</li> <li>• Flexible incubator options or other incentives to allow for more established retailers to maximize their opportunities for participation in the Equity Program.</li> <li>• The automatic expiration or reduction of provisions and the long-term direction for both governing bodies and revenues.</li> </ul>	
<p>LAND USE &amp; ZONING</p>	<p><b>Finding 15: Geographic barriers for low income or disadvantaged individuals can exist if there is a restricted area of opportunity, and scarcity of available land can drive up real estate value.</b></p>	
	<p><b>Recommendation: Equitable Distribution</b></p> <p>The City should consider land use controls that provide for more equitable distribution of cannabis storefront retail to mitigate overconcentration in disenfranchised neighborhoods</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• By reducing the eligible locations for businesses, scarcity creates further challenges for equity applicants.</li> </ul>
	<p><b>Recommendation: Thoughtful Placement</b></p> <p>The City should consider the concentration of cannabis, tobacco and alcohol retailers when issuing land use approvals.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Considering alcohol and tobacco outlet density is important to ensure any one neighborhood is not oversaturated with activity associated with potential health harms.</li> </ul>
	<p><b>Recommendation: Task Force Membership</b></p> <p>The City should amend the San Francisco Cannabis State Legalization Task Force membership to provide membership to representatives from disadvantaged communities<sup>93</sup> to ensure that issues related to overconcentration are addressed at the Task Force.</p>	<p><b>Considerations:</b></p> <ul style="list-style-type: none"> <li>• Formal relationships between regulatory agencies and a large stakeholder group can uncover key challenges and needed adjustments as well as build trust in an evolving regulatory environment.</li> <li>• A formal stakeholder group can add bureaucracy and drown out smaller voices.</li> </ul>

<sup>93</sup> As defined in Section III, Subsection E, Disadvantaged Communities;

**Appendix A. Center on Juvenile and Criminal Justice Drug Arrests Report, 2017**



## San Francisco's Drug Arrests Drop 90% through 2016; Disproportionate Arrests of African Americans Persist

By

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### Summary

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Over the last 15 years, the Center on Juvenile and Criminal Justice has issued a series of reports detailing the 40+ year pattern of San Francisco's racially discriminatory arrest practices against African Americans, particularly for drug offenses. In the last seven years, a major new development has arisen: policy reforms and San Francisco's mammoth decline in drug arrests have dramatically reduced the impact of drug offense policing on all communities. The context of today's racial disparities is that San Francisco appears to be rapidly moving away from arrest-oriented drug enforcement, with huge declines in drug arrests over the last three decades (even as the city's population rose by 150,000), capped by a dramatic, 91% plummet in the reform era over the last seven years:

1988-89 (peak years for drug arrests):	Felonies, 22,500; misdemeanors, 6,700; total, 29,200
2008-09 (peak years prior to reform):	Felonies, 14,500; misdemeanors, 4,800; total, 19,300
2015-16 (most recent years):	Felonies, 1,700; misdemeanors, <100; total, 1,800

Further research is necessary to investigate the causes and implications of this statistical trend. For instance, it would be reasonable to explore the role of emergent recreational cannabis legalization in California on policing, keeping in mind that over half of all drug arrests nationally are for cannabis,<sup>1</sup> and that cannabis arrests tend to follow the same racially disparate enforcement patterns that have historically characterized the drug war. Indeed, national data suggests that despite using cannabis at approximately the same rate as whites, African Americans are still 4 times as likely to be arrested for it.<sup>2</sup> In San Francisco, cannabis reform would have had a lesser effect on drug arrest totals (since marijuana offenses comprised fewer than one-fifth of drug arrests prior to reform) but may have been an important, added "signal" to law enforcement to de-prioritize drug arrests. The "previous findings" below illustrate a legacy of racially disparate drug arrests in San Francisco, with a particularly disturbing focus on African American girls and young women.

In sum, this report offers a description and initial analysis of the large drug arrest decline amid persistent racial disparities in felony and misdemeanor drug arrests in San Francisco. It also provides some guidance on how these trends might be viewed in the larger context of drug policy reform according to an international human rights framework. Contemporary drug policy solutions that employ an international human rights framework (1) demand equal protection under the law in form and effect; (2) embrace public health (vs. criminal justice) approaches to addressing problematic forms of drug use; and (3) favor

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<sup>1</sup> According to studies by the ACLU, marijuana arrests represented 52% of all drug arrests in 2010, and this pattern seems to persist. See more here: <https://www.aclu.org/gallery/marijuana-arrests-numbers>.

<sup>2</sup> <https://www.aclu.org/gallery/marijuana-arrests-numbers>



legal, regulated drug markets over criminal prohibition. Legalization first serves to eliminate arrest and incarceration (criminal justice) as the primary responses to illicit drug use and sale. Further, legalization can eliminate the profit motive for organized crime—also reducing the violence necessary to regulate illicit markets. Instead, new revenues and opportunities emerge that can be invested in communities most negatively impacted by decades of the disproportionate, punitive, and largely ineffective enforcement of criminal prohibition. Finally, a major objection to legalization – the purportedly bad effect on young people – has been strongly challenged by California’s experience with marijuana and other drug reforms applied to all ages. Declines of 80% in teenaged marijuana arrests since 2010 have accompanied large, *continuing declines* in crime, gun killings, violence, drug offenses, violent deaths, traffic deaths, suicides, school dropout, unplanned pregnancy, and related problems among youth.

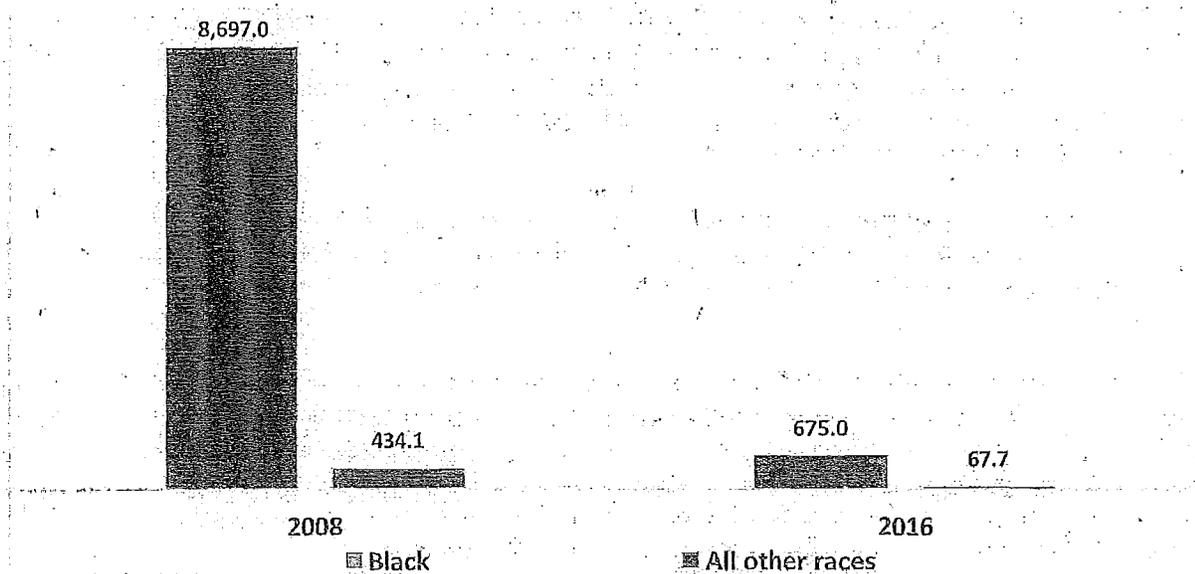
### *Key Findings*

- Drug-law reforms, policing changes, and other, unknown factors have apparently reduced drug felony arrest rates drastically in San Francisco (down 92% for African Americans and 85% for other races from their 2008 peak through 2016).
- In 2008, a number equal to 8.7% of San Francisco’s African American population was arrested for drug felonies. In 2016, the number had dropped to 0.7%.
- Arrest rates of youths in San Francisco for drug felonies have declined by 94% in recent years, including a decline of 98% among African American youth. Only two San Francisco youth were arrested for marijuana offenses in 2016, down from 53 in 2008.
- San Francisco’s explosion in drug felony arrests of African Americans during the 1995-2008 period did not occur elsewhere in the state, nor for other racial categories in San Francisco. Conversely, the city’s decline in drug arrests for all races from 2008 to 2016 was larger than occurred statewide.
- While some of the decline in felony arrests is due to the reclassification of many felony drug offenses as misdemeanors during recent reforms, misdemeanor drug arrests also fell by 90% in San Francisco from 2008 to 2015, also a much larger decline than statewide.
- Racial disparities in 2016 have narrowed from the peak year, 2008, when African Americans in San Francisco were 19.2 times more likely than non-black San Franciscans, and 4.5 times more likely than African Americans elsewhere in California, to be arrested for a drug felony.
- Even at today’s much lower levels, however, large racial disparities persist. In 2016, African Americans in San Francisco experienced felony drug arrest rates 10 times higher than San Franciscans of other races, and 2.4 times higher than African Americans elsewhere in California. Among youth (a very small sample), Latinos are now twice as likely as African Americans, five times more likely than whites, and nearly 10 times more likely than Asians to be arrested for a drug felony.
- In 2007 (the peak year for youth drug arrests), San Francisco’s African American female youth accounted for 40% of the felony drug arrests of African American female youths in California and had arrest rates 50 times higher than their counterparts in other counties. In 2014-2016, only one African American female youth was arrested in San Francisco for a drug felony.



- In 2007, 125 of the city's 265 youth drug felony arrestees were Latinos, 112 were African Americans, and 12 were Asians. In 2016, seven were Latinos, one was African American, two were Asians, and none were White.
- Racial patterns in drug arrests still do not match racial patterns in drug abuse. Of the 816 people who died from abusing illicit drugs in San Francisco during the five-year, 2011-2015 period, 55% were non-Latino Whites, 22% were African Americans, 10% were Latinos, and 9% were Asians. In contrast, 43% of the city's 6,587 drug felony arrests during this period were African Americans (other races are not detailed by San Francisco police).

Figure 1. San Francisco drug felony rates drop 92% for African Americans, 85% for Non-blacks from 2008 to 2016



Sources: DOJ (2017); DRU (2017).

## Background

### *Previous Findings and Reports*

Historically, San Francisco's drug war has been waged vigorously, disproportionately affecting communities of color while failing to address the city's serious drug abuse problem. Beginning in 2002, CJCJ issued a series of reports showing San Francisco's arrest rate of African Americans for drug offenses far exceeded that of other racial categories, and of African Americans elsewhere in California (CJCJ, 2002, 2004, 2004a, 2005, 2012). Using detailed arrest figures, CJCJ found staggering racial disparities in local policing that far exceeded the worst of those found in other cities and counties. During that time, San Francisco's African American female youth were arrested for drug offenses at rates 19 times those of local female youth of other races and at 29 times the drug felony rate of African American female youth elsewhere in California. The disproportionate policing of African American female youth for drug offenses did not seem to be driven by relevant research on local drug abuse, which showed 60% of the thousands of deaths over the last decade from illicit drug overdoses involved non-Latino whites,



overwhelmingly concentrated in men and those over 30 years of age. Research by the American Civil Liberties Union of Northern California (2002) produced similar findings on racial profiling by San Francisco authorities in drug law enforcement.

CJCJ's findings in 2002 led to presentations to the San Francisco Board of Supervisors (CJCJ, 2004; updated 2005: see Appendix A) in an April 2004 hearing called specifically "to consider why the arrest and incarceration rates for young African American women are the highest of any California jurisdiction," along with a complaint to the city's Human Rights Commission (CJCJ, 2004a, see Appendix A). These studies and complaints resulted in referrals to various committees and departments but did not result in concrete action, to our knowledge.

CJCJ also submitted the findings on the high arrest rates of African American female youth and women to the San Francisco Commission and Department on the Status of Women (2003), established under United Nations covenants, for their report on the city's female youth. Yet, the Commission's *A Report on Girls in San Francisco*, failed to analyze this critical issue, but rather stated it was simply a problem "among girls" it depicted as becoming more criminal:

An alarming trend among girls in San Francisco defies national and local trends for boys. San Francisco girls, as well as girls coming to San Francisco from neighboring communities, are getting arrested in higher numbers and for more serious crimes than girls in other parts of the state (p. 6).

The Commission noted that, "While African American girls make up 12.5% of the 10-17 year old girls in San Francisco, they accounted for over half (57.1%) of the girls being arrested or cited for law violations in 2000" (p. 15). It did not examine alternative explanations for their being arrested at rates nearly 10 times that of other female youth in the city. Issues of discriminatory policing and policies were not raised as one would expect from an investigatory body charged with enhancing the status of women. CJCJ's critique of the report in a letter to the Commission expressed dismay,

...that the report states that girls actually are committing these crimes without raising the alternative possibility of a shift in police and program attention. There are reasons within the arrest trends to suggest official policy change rather than girls' behavior—evidence that girls' assaults charged as misdemeanors elsewhere are charged as felonies in SF, the absolutely unbelievable "fact" that SF girls are 10 times more likely to be arrested for drugs and robberies than LA girls, the fact that 1 in 4 African-American girls age 10-17 are arrested every year, etc. I hope that press and officials are not left to assume (as they have so far) that girls (that is, black girls) are factually and obviously becoming more criminal (CJCJ, 2002, p. 2).

An updated Commission (2009) report also failed to address racially disproportionate arrest issues. In the few instances in which the issue has been discussed, authorities did not consider alternative explanations for the city's arrest trends or engage in a comprehensive analysis of policing policies. As a result, San Francisco's pattern of significant racial disparities in drug law enforcement persisted through 2009.

Since 2009, as noted, the 91% decline in drug arrests in San Francisco (declines particularly pronounced among African Americans and youth) has constituted a major reform in and of itself. Whether the city's higher than average decline in drug arrests is due to deliberate policy and policing changes or is a



spontaneous reaction by law enforcement to reform measures would be illuminating to determine. In either case, it appears proactive policy changes will be required to confront persistent racial disparities in arrest.

## Method

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Data for this report are taken from San Francisco Police (SFPD) and Sheriff's Department (SFSO) arrest statistics for 1977 through 2016 as well as comparable statewide statistics, published by the state Criminal Justice Statistics Center and posted on the Attorney General's Open Justice site (DOJ, 2017). SFPD data have numerous shortcomings. Alone among California's counties, SFPD and SFSO do not separate arrests by Hispanic ethnicity but instead distribute them among White and Other racial categories. Further, the SFPD classifies 44% of its felony arrests in 2016 as unspecified "other" offenses (not violent, property, drug, sex, or public order offenses). These failings render San Francisco arrest statistics for Whites, Hispanics, and Asians largely useless, arrest totals for specific offenses understated, and both incomparable to state arrests – and also distort state arrest totals. **They also raise the possibility that none of the racial statistics released by the SFPD, including for African Americans, are accurate.**

Thus, statistics from the San Francisco Juvenile Probation Department (SFJPD) (2017) tables on duplicated juvenile drug arrest counts in 2016 by gender, race/ethnicity, and offense are used to estimate the correct proportions by race for this report. No similar adjustments appear possible for adult arrestees. Rates of arrest are calculated by dividing totals by state Department of Finance populations for each age group, gender, and race.

Figures for drug mortality by county, race, ethnicity, gender, and age are from the Centers for Disease Control's (CDC) (2017) mortality files for 2000-15. Included are all deaths that involved residents of San Francisco.

## Analysis

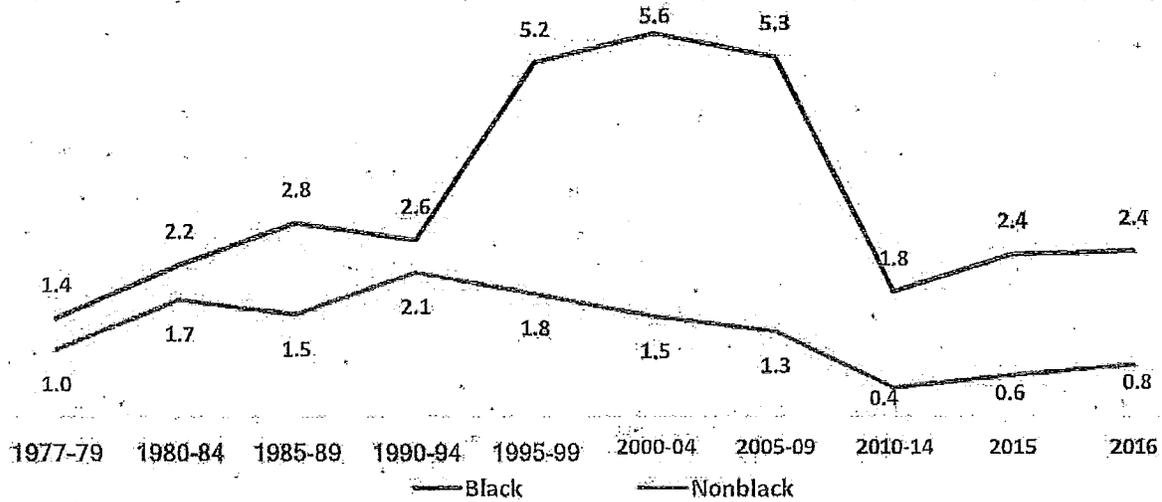
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### *San Francisco drug felony enforcement, 1977-present*

San Francisco's policing of drug felonies (manufacture, sale, and large-quantity drug possession) falls into three distinct periods of interest: the late 1980s, the 1990-2009 period, and the post-2009 period. The city's drug law enforcement displayed significant fluctuations, primarily involving African American arrest rates, including sudden eruptions in drug arrests that characterized both of these periods.



Figure 2. Ratio of San Francisco felony drug arrest rates by race vs. respective demographics in California, 1977-2016



Sources: DOJ (2017); DRU (2017).

#### The 1977-1990's period

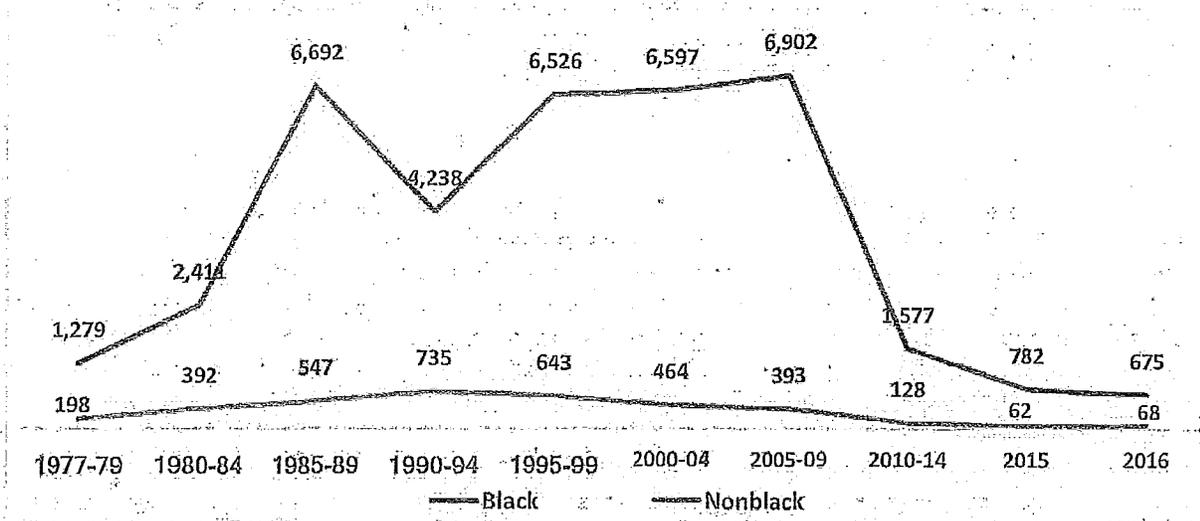
From 1980 to the mid-1990s, San Francisco's racial patterns in enforcement of drug laws roughly resembled those statewide. While the city's African Americans had considerably higher rates of drug felony arrest than African Americans elsewhere in California, so did the city's other racial categories (Figure 2). Much like African Americans statewide, those in San Francisco were 4 to 5 times more likely to be arrested for drug felonies prior to the mid-1990s than their proportions of the total population would predict (DOJ, 2017; DRU, 2017). Thus, while evidencing troubling racial disparities, San Francisco's drug law enforcement arrests by race were in the range of other major cities and patterns statewide, ones that also affected, to a much lesser degree, San Franciscans of other races.

#### The 1990-2009 period

These patterns changed suddenly and radically after the early 1990s. From the early to the late 1990s, the rate of San Franciscan African American drug felony arrests rose by 54% as that of other races fell by 12% (Figure 2). Over the next decade, the rate of drug felonies among San Francisco African Americans continued to rise to a peak in 2009 even as they plummeted among other races in the city.



Figure 3. San Francisco felony drug arrests by race, per 100,000 population, annual averages, 1977-2016



Sources: DOJ (2017); DRU (2017).

San Francisco’s explosion in drug felony arrests of African Americans during the 1995-2009 period did not occur elsewhere in the state. From 2.6 times the state average in the early 1990s, San Francisco’s African American drug felony arrest rate abruptly rose to 5.1 times higher by the late 1990s and 7.6 times higher by 2009. Even as the city’s African American population declined precipitously from 88,000 (11% of the city’s population) in 1990 to 48,000 (6%) in 2010, the proportion of African American felony drug arrestees in San Francisco rose from around 45% in the 1990s to 55% in the 2000s, with little variation over the decade.

While the city’s African American drug felony totals had risen (by around 500 in annual arrests) from the 1990s through 2009, those for other measured racial categories declined (by about 1,500 arrests) (DOJ, 2017). In fact, the city’s non-African American residents displayed significant reductions in drug felony rates during the period, which declined even faster than for non-African Americans statewide. While non-African American San Franciscans were twice as likely to be arrested as their statewide counterparts in the early 1990s, by 2009, they were 1.6 times more arrest prone.

When the city conducted a periodic crackdown on drugs, arrest increases nearly always focused wholly or overwhelmingly on African Americans—a pattern not found elsewhere in the state. CJCJ has been unable to find an empirical basis for this sharp increase in arrests of African Americans in the city. If city law enforcement authorities were responding to a generalized drug abuse crisis, arrests of other races should have risen sharply as well – particularly for whites. The unique explosion in arrests of San Francisco African Americans for drugs in the 1995-2009 period compared to residents of other races and compared to African Americans elsewhere in California stems from imperatives and/or policies so far unexplained.

The 2010-2016 period

Drug arrests fell sharply for all races in San Francisco from 2010 through 2016 (Figure 3). From their 2008 peak, drug felony rates fell 92% among African Americans and by 84% among non-black races in the city (DOJ, 2017). These declines were much larger than occurred elsewhere in California (79% for



African Americans, 68% for other races). As a result, the ratio of black arrests in San Francisco to those of blacks statewide fell from over 5-1 in 2009 to 2.4-to-1 by 2016. However, San Francisco African Americans remained 10 times more likely than non-blacks in the city to be arrested for drug felonies in 2016, down from 19 times in 2009 but still a substantial disparity.

*Drug Mortality*

Who abuses drugs in San Francisco? This is a more relevant question than simply who uses drugs, given San Francisco’s de-emphasis on policing mere drug possession (note the city’s generally low level of misdemeanor drug arrests, shown in Tables 3 and 4 below. It is also more difficult to determine, since drug “abuse” is an expansive term that is not coextensive with mere drug “use” as measured on self-reporting surveys. In fact, surveys, which tend to be dominated by high rates of use of milder drugs such as marijuana, are notoriously inaccurate measures of drug abuse, which tends to involve more rarely-used addictive and lethal drug, polydrug, and drug/alcohol use.

Although dying from overdose or organic failure due to abusing illicit drugs is a limited measure of drug abuse, it is an appropriate and accessible index that is reasonably and consistently applied across demographic groups and over time. **Of the more than 1,000 San Francisco residents and nonresidents in the city who have died from abuse of illicit drugs (a large majority of these from poisoning by overdose) in the five-year period from 2011 through 2015, 57% were non-Latino Whites, and 22% were African American, and more than two-thirds were age 45 and older (Table 1).**

**Table 1. Illicit drug-abuse death rates per 100,000 population by race/ethnicity and age, 2010-2015 (6-year rates)**

Age	All races	White	Latino	African American	Asian	All other	N
<15	1.9	3.5	0.0	4.8	0.5	157.0	11
15-24	4.4	10.1	2.7	0.0	1.0	52.1	23
25-34	8.1	9.9	6.9	22.1	3.1	61.8	90
35-44	24.2	32.7	18.1	69.4	7.1	38.6	197
45-54	40.3	51.1	31.2	139.5	8.1	426.6	276
55-64	52.0	65.9	42.0	201.3	8.9	871.7	316
65+	16.2	20.0	1.5	84.2	3.6	280.9	114
Total	20.5	27.0	12.4	76.0	4.7	248.4	1,027
N	1,027	583	95	227	84	38	

Source: CDC (2017).

The city’s lethal-drug abusing population differs from its drug arrestee population in several respects. African Americans do have the highest rates of drug abuse mortality, though not among its teenagers and young adults. The second highest mortality rate is found among non-Latino Whites. If drug deaths predicted drug arrest rates, African Americans would constitute 22% (not 42%) of the city’s drug arrests—still highly disproportionate to their population (6%) but at least reflective of drug abusing proportions by race. Below is a more in depth review of San Francisco’s most complete and recent drug arrest data, distinguishing distinct trends in San Francisco’s policing.

**If drug deaths predicted drug arrest rates, African Americans would constitute 22% (not 42%) of the city’s drug arrests.**



practices.

*Youth Drug Felonies, 2009-2016*

San Francisco's drug arrest situation among youths changed so dramatically from 2009 to 2016 that few racial conclusions can be drawn now. In 2009, a San Francisco African American youth was 9 times more likely, and an Hispanic youth nearly 4 times more likely, to be arrested for drugs than their respective African American and Hispanic counterparts statewide (DOJ, 2017; DRU, 2017). Though less than 9% of the city's youth population in 2009, African Americans then comprised 56% of San Francisco's juvenile drug felony arrests. Latinos showed a smaller but still disproportionate felony drug arrest rate. Further, San Francisco female youth were 6 times more likely to be arrested for drug felonies than female youth elsewhere in California; male youth, 2.5 times more likely. The city's African American female youth accounted for over 40% of the felony drug arrests of African American female youths in California in 2009 and had arrest rates 50 times higher than their counterparts in other counties.

**San Francisco's drug arrests among youth of all races have fallen dramatically since 2009.**

**Table 2. Juvenile felony drug arrests per 100,000 population age 10-17, San Francisco v. rest of California, 2016 v 2009<sup>3</sup>**

Felony drug Arrest rate	Male				Female			
	African American	White	Hispanic	Asian	African American	White	Hispanic	Asian
<b>2009</b>								
San Francisco	2,531.6	237.9	915.1	92.7	2,419.4	69.3	20.8	38.4
California outside SF	486.6	200.6	211.0	120.8	48.1	61.9	29.9	19.4
Ratio, San Francisco's drug felony rate versus rest of California	5.2	1.2	4.3	0.8	50.3	1.1	0.7	2.0
<b>2016</b>								
San Francisco	76.8	19.4	63.4	25.6	0.0	0.0	62.3	0.0
California outside SF	90.4	38.1	66.9	29.5	11.2	12.2	10.9	4.2
Ratio, San Francisco's drug felony rate versus rest of California	0.8	0.5	0.9	0.9	0.0	0.0	5.7	0.0

Sources: SFJPD (2017); DOJ (2017); DRU (2017).

Table 2 compares the very different picture for San Francisco's (and California's) youth drug arrests in 2016 with 2009. In just seven years, a series of reforms downgrading several drug offenses from felonies to misdemeanors and decriminalizing (for all ages), then legalizing (for those 21 and older) marijuana, and a general decline in youth crime all have contributed to massive drops in youthful drug arrests among both sexes and all races, especially in San Francisco. Even the high rate among Latina females is produced by just four arrests in the city in 2016, while all other race/sex categories now show lower rates of drug arrests than corresponding groups statewide – a situation very unlike the pre-2010 era.

Finally, the very large drop in San Francisco's (and California's) youthful drug arrests, including the virtual disappearance of drug misdemeanors, appears to have had **none of the consequences drug-war**

<sup>3</sup> San Francisco's 2009 juvenile probation report's detailed table on duplicated petitions can be used to estimate drug arrests by race/ethnicity and gender for drug felonies, but not for drug misdemeanors, which are too few to provide a reliable basis.



**proponents feared.** Drug abuse, gun killings, violence, other crimes, suicide, school dropout, unplanned pregnancy, and related ills generally have continued to decline in the post-2009 period through 2015-16, indicating that arresting and incarcerating youths for drug offenses is not necessary for their well-being or public safety (CJCJ, 2014).

*Adult Drug Felonies, 2009-2016*

**San Francisco African Americans in 2016 experienced felony drug arrest rates 2.4 times higher than African Americans in other areas of California.**

The picture for adult drug arrest rates in San Francisco is considerably different than for youths. In 2009, a number equal to roughly 10% of San Francisco's African American population between the ages of 10-69<sup>4</sup> was arrested for drug felonies (DOJ, 2017; DRU, 2017). This was 19 times higher than the rate of drug felony arrests for all other races combined in the city. In addition, San Francisco African Americans experienced felony drug arrest rates nearly 8 times higher than African Americans in other areas of California (Figure 2). These trends were also found in misdemeanor (low-quantity possession) offenses, and all drug offenses, although to varying degrees.

In 2016, San Francisco African Americans experienced felony drug arrest rates 10 times higher than nonblacks in the city, and 2.4 times those of African Americans elsewhere in California. With 2.1% of the state's African American adult population, San Francisco arrests 4.9% of California's African American adult drug felons – disproportionate, but much less so than the 14.6% registered in 2009. Nonblacks in the city have drug arrest rates comparable to nonblacks in the rest of the state.

*Misdemeanor Drug Arrests*

In contrast to its high rate of felony drug policing—albeit with large racial discrepancies—San Francisco generally de-emphasizes arrests for drug misdemeanors (low-quantity possession). In addition, law changes since 2010 have demoted several drug felonies to misdemeanors. Drug felonies and misdemeanors occasion arrests in virtually equal numbers elsewhere in California, but San Francisco law enforcement charges three times more drug arrestees with felonies than with misdemeanors.

In 2016, the city's rate of arrests for simple possession was 66% below the state average for juveniles (Table 3). However, though arrest rates have fallen substantially, the city's African American youth are arrested for possession at levels similar to those of African American youth in other counties. The drug arrest rate for San Francisco juvenile females declined particularly sharply, though it should be noted that the city's rates and trends are based on very small numbers.

<sup>4</sup> This does not mean 10% of the city's African American population was arrested that year; some individuals were arrested more than once, and some were not San Francisco residents, offset by San Franciscans arrested in other jurisdictions.



**Table 3. SF youth misdemeanor drug arrest rate, per 100,000 population age 10-17, by race, sex, v. California, 2009**

Misdemeanor Drug Arrest rate	Total	African-American	All other races	Male	Female
<b>2009</b>					
San Francisco	130.0	567.0	87.5	219.5	37.2
California outside SF	389.7	571.5	376.7	640.4	125.8
Ratio, San Francisco arrest rate vs. rest of CA	0.33	0.99	0.23	0.34	0.30
<b>2016</b>					
San Francisco	42.3	168.7	64.5	71.9	12.2
California outside SF	123.3	273.9	172.5	178.0	66.2
Ratio, San Francisco arrest rate vs. rest of CA	0.34	0.62	0.37	0.40	0.18

Sources: DOJ (2017); DRU (2017).

*Drug Arrest Trends by Race and Drug Type*

Between 1980 and 2009, the disparity between San Francisco African American arrests and all other races in the city for all types of drug offenses increased sharply (Table 4). This disparity widened the most dramatically from 1995 to 2009, with general declines in drug-related arrests of other races, and increases in drug-related arrests of African Americans. For the largest and most racially disparate drug arrest category, narcotic felonies, African Americans were 6.4 times more likely than non-African Americans to be arrested in 1980, 10.3 times more likely in 1995, and a staggering 27.5 times more likely in 2009.

**Table 4. Ratio, San Francisco African American drug arrest rate v. all other races drug arrest rate, 1980-2015**

Type of drug offense	Ratio, African American versus all other races, drug arrest rates				Change in ratio	
	1980	1995	2009	2015	1980-2009	2009-2015
<b>All drug arrests</b>	4.5	7.6	16.9	14.6	+276%	-14%
<b>All drug felonies</b>	5.7	7.7	19.3	12.6	+239%	-35%
Narcotics	6.4	10.3	27.5	13.4	+330%	-51%
Marijuana	5.3	3.8	9.6	21.1	+81%	+120%
Dangerous/other drugs	5.7	2.5	5.6	7.6	-2%	+36%
<b>All drug misdemeanors</b>	3.0	6.9	11.2	17.1	+273%	+53%
Marijuana	3.3	5.1	9.7	11.6	+194%	+20%
Dangerous/other drugs	2.8	8.5	11.7	17.4	+318%	+49%

Sources: DOJ (2017); DRU (2017).

In 2009, African Americans accounted for just 6% of San Francisco's population, but 63% of narcotics felony arrests. The African American arrest volume for narcotics (3,169) then was equivalent to 1 in 12 of the city's African American population age 10 and older (39,400). Other drug offenses, both felony and misdemeanor, showed similar if less extreme disparities and trends, but in no case did the black-v.-other races drug arrest rate disparity fall below 550% by 2009.

Over the next six years (2015 is the most recent year for detailed statistics), the rate of drug arrests fell sharply (by 85% or more) for all races. The disproportionate drug arrest rate for African Americans fell from 16.9 to 14.6 for all drugs, and from 27.5 to 13.4 for narcotics. The decrease in black disproportionality was due to the larger reduction in black than nonblack drug felony arrests; drug misdemeanors declined more for non-black races. The result was that the disproportionate level of black drug arrests rose substantially for misdemeanors over the 2009-2015 period.



## Discussion: Drug Policy Reform in San Francisco

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### *Defining and Applying an International Human Rights Framework*

The Global Commission on Drug Policy<sup>5</sup> formed in 2011 in an attempt to provoke scientific, evidence based reform to the global drug war. Their first report (2011, pg. 2) begins with the admission: “The global war on drugs has failed, with devastating consequences for individuals and societies around the world. Fifty years after the initiation of the U.N. Single Convention on Narcotic Drugs, and 40 years after President Nixon launched the U.S. government’s war on drugs, fundamental reforms in national and global drug control policies are urgently needed.” The Commission’s mission is to research and propose such fundamental reforms, arguing that “drug policies must be based on human rights and public health principles” (Global Commission on Drug Policy, 2011, pg. 5). It is worth taking a moment here to examine how human rights principles might guide domestic policy.

Generally speaking, international human rights apply to U.S. policy and governance in two ways:

- (1) Legally: Through binding international treaty law, based on U.S. ratification of human rights instruments; and customary law, based on collective, long-standing respect for certain fundamental human rights.
- (2) Ethically: As a set of international standards defined by human rights instruments and declarations, informed by the experience, research, and recommendations of human rights scholars, NGOs, international legal experts, and U.N. oversight bodies working to implement human rights practices in the U.S.

Following World War II, the U.S. played a leading role in the development of the United Nations Charter and the Universal Declaration of Human Rights [UDHR]. By the end of the 20<sup>th</sup> century the U.S. had helped to author the International Criminal Court [ICC], and signed every major international human rights instrument. However, to date, the U.S. has only *ratified*<sup>6</sup> the Convention Against Torture [CAT], the International Convention on the Elimination of All Forms of Racial Discrimination [ICERD], and the International Covenant on Civil and Political Rights [ICCPR].

Despite the legal ambiguities that result from U.S. reservations in the ratification of international human rights instruments,<sup>7</sup> human rights discourse is far from irrelevant when it comes to foreign and domestic U.S. policy. For example, recent U.S. Supreme Court decisions referenced international human rights laws and practices to rule that people who commit crimes as minors should not be subject to the death

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<sup>5</sup> It should be noted that the Commission is by no means a radical organization. It is composed of former heads of state, former U.N. Secretary General Kofi Annan, former Chair of the U.S. Federal Reserve Paul Volcker, elites from the international business community, as well as researchers, diplomats, and policy experts. Find more on the Commission here: <https://www.globalcommissionondrugs.org/about-usmission-and-history/>.

<sup>6</sup> Human rights instruments enter into force as legally binding treaties at the point of ratification. Upon ratification, state parties must “respect, protect, and fulfill” their obligations according to the instrument.

<sup>7</sup> “Reservations” refer to the legal exceptions and specifications that state parties may submit as conditions of ratification. The most common and notorious reservation applied by the U.S. is that the instrument is “not self-executing”—meaning that the instrument would only apply as determined by U.S. courts and Congress.



penalty or life without the possibility of parole. This reveals how international human rights norms and practices can inform the interpretation of domestic laws and regulations, and can provide a common reference point to evaluate and inform local practices.

Human rights offer a powerful, universal framework that provides a standard for government agencies and authorities to evaluate existing laws and policies and to develop programs that advance and strengthen human rights in local communities and institutions. Many strategies for implementing human rights practices in the U.S. are based on the ratification and recognition of human rights instruments as the benchmark for local government policy and practices.

#### Non-Discrimination and Equal Protection Under the Law

As noted at the beginning of this section, the Global Commission on Drug Policy has since 2011 advocated for the application of a human rights framework to guide policy alternatives to the dominant global policy model of aggressive, coercive criminal prohibition. A fundamental principle of all human rights instruments is that of “non-discrimination” that undergirds the notion of human universality and centrally defines civil and political human (ICCPR Articles 14 and 26) and Constitutional (14<sup>th</sup> Amendment) rights to equal protection under the law.

This report and its predecessors (CJCJ, 2002, 2004, 2004a, 2005, 2012) have so far illustrated the persistence of racially disparate drug arrest patterns in San Francisco, particularly acute for African American communities. U.S. agencies and courts have self-imposed limitations as to what constitutes “racism” or “racial discrimination” such that it is difficult if not impossible to address racial inequality in the contemporary era through Constitutional case law. As Alexander (2010, p. 113) summarizes,

In the years following *McCleskey [v. Kemp]*, lower courts consistently rejected claims of race discrimination in the criminal justice system, finding that gross racial disparities do not merit strict scrutiny in the absence of evidence of explicit race discrimination—the very evidence unavailable in the era of colorblindness.

Generally speaking, charges of racial discrimination directed at public authorities in the United States require some proof of conscious racial animus. Case history suggests that this is particularly true for any attempt to address racial disparities in policing or sentencing. However, no such burden of proof is required to legitimate claims of racial discrimination under formal human rights instruments incorporated into international law.

The United States signed (1965) and ratified (1994) the International Convention on the Elimination of Racial Discrimination (ICERD) and has not evidenced the best compliance record since. This in part results from the differences in how “racial discrimination” is defined under international and federal (U.S.) law and in the apparent problems in getting the U.S. government to “protect, respect and fulfill” its legal obligations according to human rights instruments. Policy researchers Fellner and Mauer (1998, p. 22) pointed out these legal differences twenty years ago:

ICERD wisely does not impose the requirement of discriminatory intent for a finding of discrimination. It requires states’ parties to eliminate laws or practices which may be race-neutral on their face but which have “the purpose or effect” of restricting rights on the



basis of race. Regardless therefore, of whether they were enacted with racial animus...they unnecessarily and unjustifiably create significant racial disparities in the curtailment of an important right.

The conceptualization of racial discrimination and the legal measures of non-discrimination and equal protection under the law articulated by the ICERD<sup>8</sup> demonstrate the unique characteristic of a human rights framework here: that discrimination is to be measured by disparate outcomes and impact rather than proven intent. Further, the city of San Francisco has proactively adopted the practical, results-based international definition and has established its own Human Rights Commission to defend human rights within city limits.

A human rights framework would demand that cities like San Francisco pay particular attention to addressing the persistence of racial disparities as drug policy alternatives and their implications emerge. As we see from this report, the city failed to address its highly discriminatory record of racialized policing prior to 2010, and though drug arrests have been reduced dramatically in San Francisco across the board, African Americans still find themselves systematically targeted for drug arrests at a disproportionate rate of approximately 10 to 1.

#### Shift from Criminal Justice to Public Health

One overarching theme in the international global drug policy reform movement has been to define and address problematic forms of drug use (addiction, overdose death, etc.) through the prism of public health rather than criminal justice. The international human rights community has been relatively consistent on this issue for over 20 years, pointing to the systematic violation of drug users' fundamental human rights to life (ICCPR Article 6), equal protection under the law (ICCPR Articles 14 and 26), protection against arbitrary arrest, detention, or exile (ICCPR Article 9), health (ICESCR 12), and humane treatment when deprived of liberty (ICCPR Article 10) under aggressive criminal prohibition. As pointed out by former High Commissioner for Human Rights, Navi Pillay (2009), "Individuals who use drugs do not forfeit their human rights." A human rights framework recognizes the tendency for the criminalization of drug users to result in the derogation of their human and Constitutional rights.

International human rights frameworks also tend to be grounded in research, encouraging the development of effective solutions based in demonstrated best practices rather than political interest or expediency. The Global Commission on Drug Policy (2011, p. 6) illustrates this tendency in their definition of drug addiction as a social problem:

In reality, drug dependence is a complex health condition that has a mixture of causes—social, psychological and physical (including, for example, harsh living conditions, or a history of personal trauma or emotional problems). Trying to manage this complex condition through punishment is ineffective—much greater success can be achieved by providing a range of evidence-based drug treatment services. Countries that have treated citizens dependent on drugs as patients in need of treatment, instead of criminals deserving punishment, have demonstrated extremely positive results in crime reduction, health improvement, and overcoming dependence.

<sup>8</sup> See specifically ICERD General Recommendation XIV (42), Article 1, paragraph 1.



Countries that have recently embraced a public health approach include Portugal.<sup>9</sup> In 2001 as the U.S. hardened its drug war stance at home in conjunction with the building of a new police and surveillance state post-9/11, Portugal went in the opposite direction, decriminalizing nearly all forms of drug use and devoting resources to outreach and treatment for drug users. As a result (Kristof, 2017):

- Overdose death in Portugal sank 85% since drug policy reform, and now has the lowest rate in Western Europe and about one fifteenth that of the U.S., where overdose death has been on the rise in part due to the persistent opioid epidemic.
- The Portuguese Health Ministry estimates regular heroin users at 25,000, down 75% since implementing drug policy reform.
- Portuguese harm reduction programs (such as needle exchanges) helped to bring drug related HIV cases down 90% since their height in 1999 when Portugal had the highest rate of drug related infection in Europe.
- Portugal illustrates the cost efficiency of treatment over incarceration for drug use. Portugal's drug programs cost approximately \$10 per citizen annually, while the U.S. has spent over \$1 trillion (about \$10k per American household) on criminal prohibition.

Even though the advantages of public health approaches are uncontroversial in the research community, criminal prohibition persists in places like the U.S. and the Philippines where “tough on drugs/crime” discourses continue to dominate politics. Legal experts have explicitly argued for California to “pave the way for progressive U.S. drug reform” (Whitelaw, 2017, p. 83) and adopt the Portuguese model. In cities like San Francisco, shifts in policing, drug policy reform (including the legalization of cannabis), and a dedication to international human rights standards present opportunities to realize a shift from failed criminal prohibition to more effective and cost efficient forms of drug treatment, harm reduction, and community investment to address problematic forms of drug use. While decriminalization is an obligatory first step in such a transition; legal, regulated drug markets provide additional resources for public health and drug war alternatives through savings in law enforcement costs and increased public revenues from licensing and regulated sales (Global Commission on Drug Policy, 2016).

### Legalization and Sustainable Development

One of the most useful features of a human rights framework as it applies to drug policy reform is an emphasis on producing desired *outcomes*—“less crime, better health, and more economic and social development”—rather than exclusively focusing on *process* or procedural justice in determining whether or not actions are taken according to the law (Global Commission on Drug Policy 2011, pg. 5). In this sense, the international human rights community and the Global Commission on Drug Policy see benefits to legalization beyond the potential pivot from criminal justice to public health solutions, or the potential to undercut organized criminal activity in the illicit market. Indeed, curbing drug related violence and corruption is extraordinarily important for realizing human rights practice and a sense of justice for communities most deeply affected by the failed drug war. The illicit drug trade still represents the largest global source of revenue for organized crime (Global Commission on Drug Policy, 2016; McFarland Sánchez-Moreno, 2015). But legalization presents an opportunity to do more than simply reduce the flow

<sup>9</sup> For thorough reporting and analysis on Portugal's drug policy reforms, see: Greenwald, G. (2009). Drug decriminalization in Portugal: Lessons for creating fair and successful drug policies. *The CATO Institute*. Retrieved on 09/29/17 from <https://www.cato.org/publications/white-paper/drug-decriminalization-portugal-lessons-creating-fair-successful-drug-policies>.



of arrests or illegal contraband. It provides a new resource environment to address the structured inequalities resulting from and exacerbated by the failed war on drugs.

In its 2016 report, the Global Commission on Drug Policy takes special care to call for nations to go beyond decriminalization to create legal, regulated markets designed according to U.N. Sustainable Development Goals [SDG].<sup>10</sup> That is, legal markets should be designed in order to create solutions to related social problems, specifically including systemic poverty, structured inequality (along lines of race and gender in particular), and the need for economically and ecologically sustainable cities/communities. The Commission encourages legalization models where the benefits “must apply to every individual, including people who use drugs (Global Commission on Drug Policy, 2016, p. 27). Put simply, a human rights framework suggests that legal markets and drug policy alternatives should be designed in order to serve and re-invest in the communities and individuals systematically disenfranchised by 50 years of aggressive criminal prohibition.

Noted in previous reports (CJCJ, 2002, 2004, 2004a, 2005, 2012) and established in at least 40 years of critical criminological research,<sup>11</sup> the most disastrous effects of the drug war—including vastly disparate enforcement/sanction, punitive sentencing, civil penalties, subjection to drug abuse/addiction (and associated threats to public health), subjection to drug-related violence, loss of property value/community degradation, loss of educational/employment opportunities, and geographic dislocation—have been shouldered by the poor and people of color, African American and Latinx populations in particular. As we have attempted to point out in San Francisco, African Americans and to a lesser extent (with the recent trend in youth arrests as an exception) Latinx residents have been the most aggressively policed, arrested, and sanctioned for a drug addiction and overdose death epidemic dominated by middle-age “non-Latino whites” (CJCJ 2012). In addition, African American girls and young women were until recently targeted for criminal law enforcement at staggering rates in San Francisco, suggesting their paying of a heavy price for failed enforcement policies in comparison to all other demographic groups in the city.

Being targeted for drug arrest and sanction can result in any number of short and long term effects on individuals targeted, as well as their families and communities. The Global Commission on Drug Policy (2016, p. 17; see also Chin, 2002, pgs. 260-265) also recognize that,

In the US, for example, felony convictions for drugs, which include possession of certain substances, can lead to: exclusion from juries; voter disenfranchisement in a number of states; eviction or exclusion from public housing; refusal of financial aid for higher education; revocation or suspension of a driver’s license; deportation and in some cases permanent separation from their families of those considered “non-citizens;” exclusion from certain jobs, and denial of welfare.

In addition, studies of San Francisco and other “progressive” U.S. cities demonstrate historical and contemporary connections between racially disparate drug law enforcement (and additional forms of “order maintenance” policing) and politics of space—including gentrification (Lynch, M., M. Omori, A. Roussell, and M. Valasik, 2013). The systematic targeting of working class people of color for drug arrests in one of the most brutally expensive housing markets in the country serves as a structural barrier

<sup>10</sup> See the U.N. Sustainable Development Goals from 2015 here: <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>.

<sup>11</sup> For illustrations see: Ostertag and Armaline, 2011; Johnson and Bennett, 2016; Jensen, Gerber and Mosher, 2004.



to the sustainability of working class communities of color in the city. The impacts of criminal prohibition should be understood beyond the individual to encompass effects on communities and the broader racial politics of place in San Francisco.

A human rights framework suggests that the resources, opportunities, and cost savings made available through legal, regulated markets—like the legal cannabis market emergent in California—be re-invested in the individuals and communities most impacted by the legacies of a failed drug war. From research, we know that these tend to be poor communities of color—African Americans and Latinx populations in particular, with a special focus on African American women and girls. Research on the effects of the drug war and on international best practices for reform suggest that the new resource environment created via cannabis and other forms of legalization in cities like San Francisco should be employed to address the poverty, unemployment, housing instability, mental/physical health problems, and geographic displacement of these heavily impacted individuals and communities.

### Conclusion

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In recent decades, as San Francisco's population has grown and become somewhat older and wealthier, the city's African American population has declined sharply and become poorer and more concentrated in isolated districts. One anecdotal explanation for the racial disparities has been the ease of frequent and multiple arrests of drug dealers in open-air markets in the poorer areas of the city as opposed to the more difficult task of policing the larger, more discreet drug supply networks serving affluent areas.

By CJCJ's repeated analyses during the 2000s, San Francisco authorities have not responded to apparent, serious and uniquely extreme racial disparities in policing of drug offenses and have not provided rational explanation for the disparities or policies to ameliorate them. Nor have authorities explained why the city's drug policing, already racially discriminatory, became radically more so from the early 1990s to around 2009. If objective criminal justice goals and standards to justify San Francisco's arrest trends exist, then local authorities would seem obligated to provide detailed explanation. In particular, what changed in the 1990s, and only in San Francisco, to dramatically boost the fixation on African Americans as the city's drug criminals?

The analysis suggests that prior to 2010, the San Francisco Police Department might have been re-arresting the same African-Americans over and over, then releasing the large majority, and re-arresting them again within a short period of time. The overall result of this policy was to combine the worst of both worlds: injustice and ineffectuality. Corraling African American drug dealers produced impressive arrest numbers but was not effective policy to prevent drug abuse. San Francisco's already excessive drug overdose/abuse death rate continued to climb through 2009, though in fairness, drug tolls have been rising elsewhere in the state and nation as well. Moreover, while it may have partitioned drug marketing violence to certain areas of the city, levels of violence in those areas remain concentrated and high. The policy did appear effective at creating a multiple-felony population with no employment prospects and significant challenges and barriers to success in the community. These barriers arose even though San Francisco sent drug offenders to state prison at a rate less than half the state average.

Whatever its underlying imperatives, the city's drug arrest policy prior to recent reforms has yielded to a dramatic new situation after reforms ameliorated drug policing in major ways from 2010 to the present. Drug arrests have fallen so dramatically that an African American in San Francisco is now less likely to



be arrested for drugs than a non-black resident was 10 years ago. However, despite the impressive reduction of 90% or more in the impact of drug arrests on local communities since 2009, reform has not much reduced the racial disparities in drug policing. African Americans are still 15 times more likely to be arrested for a felony or misdemeanor drug offense in San Francisco than other races, and neither the proportions of blacks in the city's population (6%) or drug mortality toll (22%) even begins to justify such a huge disparity.

Whether intentional or not, such consistent disparities in drug-war policing in San Francisco should be viewed as a human rights violation. As noted previously, formal human rights discourse defines racial discrimination not in terms of overt, conscious racial animus, but in terms of its evident effects. The city is subject to national, state, and local requirements to enforce laws in a non-discriminatory fashion and is signatory to international human rights accords imposing even stricter non-discrimination standards. San Francisco's ongoing, extreme racial disparities in drug law enforcement and authorities' paralysis in addressing them conflict with the city's commitment to the egalitarian ideals it champions. Further, an international human rights framework provides specific guidance on how cities like San Francisco can go beyond halting racially disparate and largely ineffective criminal justice models to models focusing on public health and sustainable community re-investment.

**In light of these observations, we respectfully recommend the San Francisco Board of Supervisors:**

1. **Initiate a multi-agency investigation into San Francisco's policing policies and practices to explore policy decisions that contribute to these trends.**
2. **Require the San Francisco Police Department and all other arresting agencies to conform to state standards observed by all other agencies in California in reporting arrests by race and Latinx ethnicity and by specific offense rather than classifying excessive arrest numbers as "other" offenses.**
3. **Develop and adopt a concrete plan to address these racial discrepancies in San Francisco's drug arrest practices, monitored through periodic, results-based evaluations.**
4. **Reaffirm San Francisco's commitment to upholding its obligations under the International Convention to End Racial Discrimination (ICERD) and the anti-discriminatory clause of the International Covenant on Civil and Political Rights (ICCPR).**
5. **Assess the trends in drug abuse, drug related crime, and other drug-related health and safety issues in San Francisco by demographic and other variables.**
6. **Include a robust "Equity Platform" in the design of Adult Use of Marijuana [AUM] regulations such that opportunities, savings, and revenue from the legal cannabis market serve to benefit those systematically criminalized and impacted by the drug war in San Francisco: working class people of color, African American women in particular.**



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*Please note: Each year, every county submits their data to the official statewide databases maintained by appointed governmental bodies. While every effort is made to review data for accuracy, CJ CJ cannot be responsible for data reporting errors made at the county level.*

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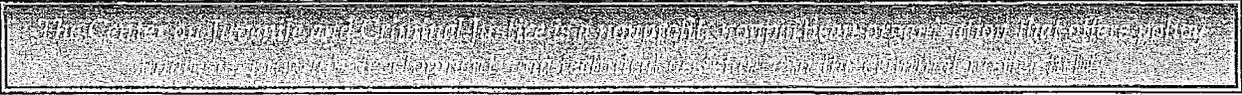
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Appendix A

**Testimony to San Francisco Board of Supervisors on Disproportionate Arrest/Confinement of African-American Young Women for Drug Offenses**

Mike Males, 8 July 2004

The attached charts show the arrest rates of San Francisco African-American juvenile girls ages 10-17 for several offenses compared to African-American girls elsewhere in California, as well as to San Francisco girls of other races. They indicate that **San Francisco has vastly disproportionate arrests of young black women even compared to the rest of the state.**

The figures forming the basis of these calculations are the latest for California and San Francisco from the state Department of Justice's Criminal Justice Statistics Center (*California Criminal Justice Profiles*, at <http://caag.state.ca.us/cjsc/>) and San Francisco Juvenile Probation Department (annual *Statistics* report). Population figures are from the California Department of Finance's Demographic Research Unit (<http://www.dof.ca.gov/HTML/DEMOGRAP/Druhpar.htm>).

Excessive black arrest rates are of concern throughout California and the nation. Note that in California outside San Francisco, black girls are 3.5 times more likely to be arrested for felonies, 4.6 times more likely to be arrested for assault, and 1.8 times more likely to be arrested for felony drug offenses than California girls of other races.

**Racial arrest discrepancies are stark enough elsewhere. San Francisco's are massively worse. In San Francisco, black girls are 11.4 times more likely to be arrested for felonies, 10.6 times more likely to be arrested for assault, and 18.9 times more likely to be arrested for felony drug offenses than are San Francisco girls of other races.**

San Francisco white, Latina, Asian, and other/mixed-race (that is, non-black) girls display a varied, though relatively normal pattern of urban arrests for felonies—about 30% higher than the statewide average for non-black girls, including rates slightly higher for assault, slightly lower for property offenses, 2.8 times higher for drug felonies, and considerably lower for drug misdemeanors.

This is not the case for San Francisco black girls, who display arrest rates 4.3 times higher for felonies, 2.5 times higher for assault, and 29.2 times higher for drug felonies than **BLACK girls elsewhere in California.**

Looked at another way, **San Francisco has 1.8% of the state's young black women but accounts for 35.2% of the arrests of young black women for drug felonies, and 7.5% for all felonies, in the state.**

Within the city, **blacks comprise 12.2% of San Francisco's population of girls but comprise 61.4% of San Francisco girls' arrests for felonies, 66.7% for robbery, and 72.3% for drug felonies.**

Blacks account for 57% of total arrests, two-thirds of the felony petitions sustained, and three in five incarcerations of juvenile girls in the city.

San Francisco's pattern forms a gigantic anomaly found nowhere else. While (a) San Francisco boys of all races, (b) San Francisco girls of other races, (c) California black girls, and (d) California boys and girls of all races ALL show declining rates of arrest and imprisonment over the last decade, (e) **San Francisco black girls are the ONLY youth population in the state showing skyrocketing rates of arrest and incarceration.**

Finally, there is no evidence of a serious drug abuse problem among San Francisco black girls that would explain their massively excessive arrest rate. **The city's drug abusing population is mostly white and overwhelmingly over age 30.** The drugs they abuse are exactly the same ones implicated in violence.



among drug dealers: heroin, cocaine, methamphetamine, illicit drug combinations, and drugs mixed with alcohol.

In the last seven years (1997 through 2002), federal Drug Abuse Warning Network show 2,260 deaths in the city were directly related to illegal-drug abuse. Of these, 1,486 were whites (66%), and 1,793 (79%) were over age 35. DAWN reports also show a staggering 52,400 San Franciscans treated in hospital emergency rooms for illegal-drug abuse over the last seven years. Of these, 65% were white, and 88% were over age 30.

Meanwhile, none of the city's drug abuse deaths and fewer than 2% of the city's hospital emergency treatments for drug abuse were younger black women (age 10-24). Emotional anecdotes gracing the city's media aside, there is little evidence of a serious drug abuse problem among younger African Americans in San Francisco, and especially not among young black women. There has not been a drug overdose death of any kind involving an African-American female under age 25 in San Francisco since 1996 (figures through 2002).

Compared to their contribution to the city's drug abuse problem, young blacks (ages 15-29) are 60 times more likely to be arrested for drugs than whites over age 30.

San Francisco may pride itself on its enlightened policies toward drugs, but in point of fact, this city's drug situation is very disturbing. This city is failing to address both its massive drug abuse problem among older whites (three times the rate of other cities in California) and its massively excessive drug over-arrest problem of younger black women (29 times the rate elsewhere in California). I am certainly not suggesting arresting more people of any race for drugs; the city's felony drug arrest rate is already substantially higher than the state's as a whole. I am suggesting a major revision in the way we confront drug abuse and law enforcement in light of San Francisco's extreme discrepancies with regard to race, gender, and age.

Arrests, San Francisco vs. California girls, 2000-02

Arrests per 100,000 population age 10-17

African American girls, 2000-02

Rate	San Francisco	Rest of CA
Felony	6,715	1,546
Assault	1,042	401
Robbery	926	138
Property	1,598	796
Fel drug	2,362	81
Misd drug	93	143
All drug	2,455	224

Arrests, girls of other races

Rate	San Francisco	Rest of CA
Felony	587	440
Assault	98	87
Robbery	64	12
Property	219	244
Fel drug	125	44
Misd drug	35	153
All drug	161	197



Arrests, all girls

<u>Rate</u>	<u>San Francisco</u>	<u>Rest of CA</u>
Felony	1,334	525
Assault	213	111
Robbery	169	21
Property	387	287
Fel drug	398	47
Misd drug	42	152
All drug	441	199

Thank you for your consideration.

Mike Males

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Item 040470 will be heard at approximately 10:45 am at the Board of Supervisors, special hearing on the issue of the over-arrest of African American girls in San Francisco. The hearing will be at the City Services Committee meeting on Thursday, July 8 at City Hall. Supervisors Maxwell, Dufty, Alioto-Pier, Ma

Hearing to discuss the juvenile justice system with regard to the arrest and incarceration rates of adolescent girls; to consider the criminal justice programs serving this population, and to consider why the arrest and incarceration rates for young African American women are the highest of any California jurisdiction.

4/13/04, RECEIVED AND ASSIGNED to City Services Committee.

4/20/04, REFERRED TO DEPARTMENT. Referred to Youth Commission for comment and recommendation.

[http://www.sfgov.org/site/bdsupvrs\\_page.asp?id=26009](http://www.sfgov.org/site/bdsupvrs_page.asp?id=26009)



4 January 2004

Commission Secretary  
Human Rights Commission  
25 Van Ness Avenue, Suite 800  
San Francisco, CA 94102-6033  
Phone: 415.252.2500  
Fax: 415.431.5764  
TDD: 800.735.2922  
E-mail: hrc.info@sfgov.org

Dear Commissioners:

I am writing to ask for Commission investigation of the excessive arrest and incarceration of African-American juvenile females in San Francisco, specifically for drug offenses. I believe the extreme pattern documented below constitutes age-based, racial and sexual discrimination.

1. San Francisco law enforcement authorities arrest juvenile black females for felony drug offenses at a rate far exceeding that of California as a whole, and comparable California cities.

The 2000 Census shows 3,016 black females ages 10-17 in San Francisco, 2.1% of the state's total population of 146,012 black females ages 10-17.

In 2002, California Criminal Justice Statistics Center (Department of Justice) figures show there were 56 black juvenile females arrested for drug felonies in San Francisco, 35.7% of the 157 black juvenile females arrested for drug felonies in all of California.

At 1,857 per 100,000 population, the arrest rate for black juvenile females in San Francisco is 26 times the rate of arrest of black juvenile girls for drug felonies elsewhere in the state. Nor is 2002 an isolated year. In 2001, San Francisco black girls comprised 69 of the 191 arrests of black girls statewide for drug felonies, also 36% of the total.

San Francisco black girls comprise 12.5% of the 24,119 juvenile females ages 10-17 in San Francisco, but 70% of the arrests of juvenile females for drug felonies and 77% of the petitions sustained for drug felonies (San Francisco Juvenile Probation Department annual report, 2000). The drug felony arrest rate for San Francisco black girls is 15 times the rate for other girls in the city (123.2 per 100,000 population). The drug felony conviction (petition sustained) rate for black girls is 23 times that of other girls in San Francisco.

2. There is no evidence of a drug abuse problem among San Francisco black girls that would justify such a drug arrest and incarceration excess.

In 2001, black juvenile girls comprised none of the city's 104 drug overdose deaths, and 1 of the city's 517 illegal-drug-related hospital emergency treatments—less than one-fifth of 1% of the city's drug abuse total (California Center for Health Statistics, and Epidemiology and Injury Control, Department of Health Services).



3. Every measure of drug abuse shows the city's drug abuse problem, overwhelmingly, is white and over age 30.

In 2001, whites over age 30 comprised 81 of the city's 104 drug overdose deaths, and 302 of the city's 517 illegal-drug-related hospital emergency treatments--60% to 80% of the city's drug abuse total.

Federal Drug Abuse Warning Network figures show the same pattern for all deaths and hospital emergency room treatments (whether accident, suicide, or undetermined) classified as directly related to abuse of illegal drugs. In 2002, persons over age 35 comprised 84%, and whites 64%, of the city's 273 drug abuse fatalities.

Yet despite their overwhelming contribution to San Francisco's drug abuse toll, city whites over age 30 comprise just 19.6% (1,577 of 8,035) of felony arrests for drug offenses, and 24.8% (373 of 1,504) of misdemeanor drug arrests. Meanwhile, blacks under age 30, who account for just 1% of the city's drug abuse deaths, comprise 22.7% (1,827 of 8,035) of felony, and 12.6% (190 of 1,504) of misdemeanor drug offenses.

Whites over age 30 are arrested for drugs at a rate one-third of what their contribution to San Francisco's drug abuse toll would predict, while blacks ages 15-29 are arrested at a rate 22 times higher than their drug abuse proportion would predict. Thus, compared to their level of drug abuse, younger blacks are more than 60 times more likely to be arrested for drugs than older whites.

4. This racial disparity in arrest exists for adult African American women, though not to the extreme extent as for juvenile females.

Comprising 2.7% of the black female population statewide, San Francisco black females comprise the following proportions of arrests for drug felonies of females in their age groups statewide: ages 18-19, 42%; ages 20-29, 34%; ages 30-39, 12%, and ages 40-older, 12%.

Comprising 8% to 10% of San Francisco's female population, blacks age 18-19 comprise 73% of the arrests 18-19 year-old women citywide for drug felonies; 66% for age 20-29, 56% for ages 30-39, and 70% for those ages 40 and older.

5. San Francisco's law enforcement policy toward drugs cannot be justified on the grounds of practicality. It is of dubious effectiveness in reducing drug abuse. According to Drug Abuse Warning Network tabulations, San Francisco's rate of drug-related mortality (37.2 per 100,000 population in 2001) is three times higher than for Los Angeles (12.2) and San Diego (12.8), and its rate of drug-related hospital emergency treatments (1,121.9 per 100,000 population in 2002) is 4.5 times higher than for Los Angeles (250.7) and 4.8 times higher than for San Diego (12.2).

6. This complaint does not allege a violation of civil rights in any individual case. Rather, it alleges that the extreme nature of these statistics clearly shows that San Francisco's pattern of drug law enforcement results in discrimination against younger black people, particularly younger black women, and excessive leniency toward older whites whose drug abuse is driving the city's illicit drug use and distribution. These are, by far, the most racially extreme figures I have seen for any city statewide.



Although precise race-by-age figures are not available for cities, San Francisco arrested more juvenile girls by number in 2002 for drug felonies (83) than the city of Los Angeles (74) or all jurisdictions in Alameda County (32), the latter of which have youth populations six and three times higher than San Francisco, respectively. As seen, San Francisco's arrests are disproportionately of blacks.

7. I believe San Francisco's method of enforcing drug laws constitutes a race-, gender-, and age-based human rights violation that is unfair on its face and which damages the lives of young people while failing to address the city's serious drug abuse problem among older age groups. I ask that these racial disparities be examined and that the city pursue policies that are more equitable and effective in light of the age, race, and gender characteristics of its drug abuse problem.

thank you for your attention,

Mike Males, Ph.D.  
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Appendix B. Full List of Cannabis Specific Statutes Reviewed

Class	Statute	Description
Felony	11357(a) HS/F	Possession of concentrated cannabis
	11358 HS/F	Cultivation of marijuana
	11358(d) HS/F	Cultivation of marijuana with priors
	11359 HS/F	Possession of marijuana for sale
	11359(c) HS/F	Possession of marijuana for sale with priors
	11359(d) HS/F	Possession of marijuana for sale involving a person age 20 or younger
	11360(a) HS/F	Transportation, sale and giving away of marijuana
	11360(a)(3) HS/F	Transportation, sale and giving away of marijuana
	11361(a) HS/F	Employment of a minor to sell or carry marijuana
	11361(b) HS/F	Furnishing marijuana to minor over 14
	11362.3(a)(6) HS/F	Manufacturing concentrated cannabis using a volatile solvent without a license
Misdemeanor	11357(a) HS/M	Possession of concentrated cannabis
	11357(b) HS/M	Possession of marijuana 28.5 grams or less
	11357(b)(2) HS/M	Possession of marijuana more than 28.5 grams or concentrated cannabis more than four grams
	11357(c) HS/M	Possession of marijuana 28.5 grams or less or concentrated cannabis four grams or less at school
	11357(d) HS/M	Possession of marijuana 28.5 grams or less at school

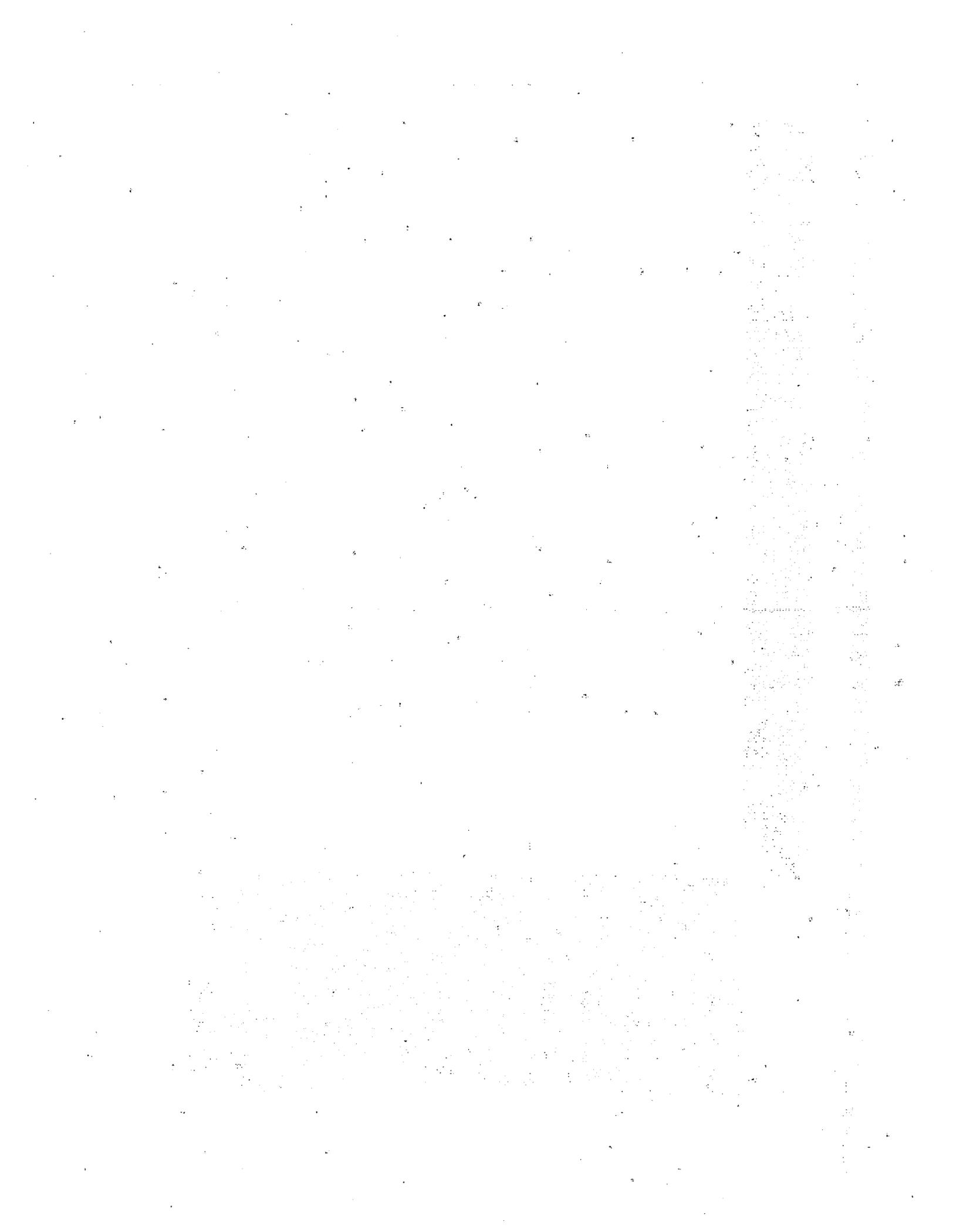
	11357(e) HS/M	Possession of marijuana upon grounds of k - 12 school
	11357.5(a) HS/M	Selling or distributing a synthetic cannabinoid compound
	11357.5(b) HS/M	Use or possession of a synthetic cannabinoid compound with prior offense
	11358(c) HS/M	Cultivation of marijuana
	11359(b) HS/M	Possession of marijuana for sale
	11360(a)(2) HS/M	Transportation, sale and giving away of marijuana
	11360(b) HS/M	Transportation of not more than 28.5 grams of marijuana other than concentrated cannabis
	11362.3(a)(5) HS/M	Possession of marijuana upon school grounds
	23222(b) VC/M	Possession of marijuana while driving
	34014(a) RT/M	Operating a business in cultivation and retail of marijuana products without a permit
Infraction	11357(a) HS/I	Possession of marijuana 28.5 grams or less or concentrated cannabis four grams or less
	11357(b) HS/I	Possession of marijuana 28.5 grams or less
	11357(b)(1) HS/I	Minor in possession of marijuana more than 28.5 grams or concentrated cannabis more than four grams
	11357(d) HS/I	Minor in possession of marijuana 28.5 grams or less or concentrated cannabis four grams or less at school
	11357.5(b) HS/I	Use or possession of a synthetic cannabinoid compound
	11358(a) HS/I	Cultivation of marijuana by a minor under 18.
	11358(b) HS/I	Cultivation of marijuana by a person between 18 and 20 years of age

11359(a) HS/l	Possession of marijuana for sale by a minor under 18
11360(a)(1) HS/l	Transportation, sale and giving away of marijuana by a minor under 18
11360(b) HS/l	Transportation of not more than 28.5 grams of marijuana other than concentrated cannabis
11362.3(a)(1) HS/l	Smoking marijuana in a prohibited public place
11362.3(a)(2) HS/l	Smoking marijuana where tobacco is prohibited
11362.3(a)(3) HS/l	Smoking marijuana within 1,000 feet of a school
11362.3(a)(4) HS/l	Possession of an open container of marijuana while in a vehicle
23222(b) VC/l	Possession of marijuana while driving



Appendix C: Equity Program Components and Targeted Barriers to Entry

		Barrier to Entry									
		Financial			Technical				Criminal	Geography	Perception
Program Type	Specific Program	Access to Capital	Access to Real Estate	Licensing Fees	Business	Legal & Regulatory	Tax	Awareness of Equity Programs	Background Checks	Access to Opportunity	Distrust in Government
Financial & Capital Assistance	Incubators	✓	✓								
	Loans	✓	✓	✓							
	Real Estate		✓								
	City Property		✓								
	Fee Waivers	✓		✓							
	Tax Incentives	✓									
	Community Reinvestment	✓									✓
	Conditional Approval	✓	✓								
Technical Assistance	Business Training				✓						
	Cannabis Training				✓						
	Regulatory Training or Assistance					✓	✓				
	Mentorship & Learning							✓			
Public Awareness	Advertisements							✓			✓
	Neighborhood Outreach/Education							✓		✓	✓
	Priority					✓					
Licensing	Clarity				✓	✓					
	Streamlining	✓				✓					
	Equitable Zoning									✓	
Criminal History	Disregarding Cannabis Offenses								✓		
	Expungement Assistance/Events								✓		✓



## **Appendix D. Existing Resources**

San Francisco has numerous existing resources that can serve as important tools for Equity Applicants and the existing industry. While this is not meant to serve as an exhaustive inventory, this section provides background for existing programs referenced in the report. These are a few of the programs that can be leveraged to help create a more inclusive industry and ensure the success of Equity Applicants.

### *General Support from the Office of Small Business*

The Office of Small Business (OSB) and the SF Business Portal serve as a central point of information and assistance for small businesses and entrepreneurs located in San Francisco and provides one-to-one case management assistance including information on required license and permits, technical assistance, and other business resources.

The OSB specializes in servicing business clients that are unfamiliar or challenged by language in understanding the business regulatory environment and can help navigate business to technical services managed by other portions of OEWD and service providers.

### *Business Assistance*

Office of Small Business services include providing potential operators with a customized checklist for starting a business; Business Registration Requirements; Business License and Permit Info; Zoning & Land Use Info & Assistance; Technical Assistance Providers & Business Support; ADA Requirements / and Assessments; Business Classes and Workshops; Legal Resources for Entrepreneurs; Employer Mandates - Hiring Employees; Building Permit Process Overview; various other Business Resources and Programs.

### *Legal Assistance*

The Office of Small Business can also refer to programs such as the San Francisco Bar Association Lawyer Referral and Informational Services. This costs approximately \$35 for 30 minutes.

### *Human Resources Assistance*

The Office of Small Business can also refer to resources such as the California Employers Association, a not for profit employers association.

### *Open in SF*

Mayor Lee has created Open in SF and set a priority to support the 80,000 small businesses that are at the core of San Francisco's identity, economy, and workforce, and to make it easier for San Franciscans to open, operate, or grow a small business. The program is an interagency collaboration that provides direct services to assist individuals in San Francisco who are working through the permitting process to open a small business.

### *First Source*

This program requires cannabis businesses to post any new entry level positions with San Francisco's workforce system before posting positions publicly through other platforms. The City's workforce

system is a robust network of community based organizations, job development providers, and vocational training programs working primarily with unemployed, underemployed, and low-income San Franciscans. Participants in the workforce system often access this system because they represent populations that have historically faced discrimination and disenfranchisement and as a result lack the professional networks that are so critical to gaining a foothold in a career. The workforce system worked with over 8,000 people last year, 92% of which represented households earning less than 50% AML and 37% of which were African American. The workforce system targets specific populations that have unique barriers to employment, including formerly incarcerated individuals, veterans, and newly arrived immigrants. These are the individuals that the cannabis industry has made a priority and by incorporating First Source hiring practices into cannabis businesses, businesses have a direct connection to the job seekers that it is looking for. In San Francisco's tight labor market, First Source offers an invaluable pool of qualified entry-level talent that small businesses can struggle to find.

#### *Neighborhood Access Points*

San Francisco funds several Neighborhood and Specialized Access Points in order to connect workforce services to specific communities with a disproportionate rate of unemployment and/or poverty and for targeted populations who face barriers to employment. The Neighborhood Access Points are community-based workforce centers that offer participants support in seeking and connecting to employment. They also partner with neighboring businesses within a community in order to connect local businesses to local jobseekers. The Specialized Access Points deliver customized workforce services for populations who often face barriers in finding employment, including a Re-Entry Access point, to address the specific job readiness needs for individuals who have interfaced with the criminal justice system, including those with cannabis-related convictions. Collectively, these workforce services further expand pipelines of qualified candidates for training and employment opportunities and supporting growing industries, as the marijuana sector, in San Francisco.

#### *Skill Building Programs:*

**Hospitality Academy** - The Hospitality Academy is designed to coordinate training with employment opportunities in order to support the growth of a diverse and well-qualified hospitality sector workforce in San Francisco. It makes targeted trainings available to prepare San Francisco residents for employment opportunities in the hospitality sector -- from food preparation and guest services to the maintenance and security needs that hospitality businesses require. The Hospitality Academy serves to fulfill the hiring needs of hospitality sector employers with qualified candidates that are job ready, possess the skills and abilities to be an attribute to the workforce, and hold knowledge and passion for the industry. Participants successfully completing programming from the Hospitality Academy would be natural candidates for retail positions, cannabis food businesses as well as security guard positions.

#### *CityBuild*

CityBuild Academy aims to meet the demands of the construction industry and our dynamic economy by providing comprehensive pre-apprenticeship and construction administration training to San Francisco residents. CityBuild began in 2006 as an effort to coordinate City-wide construction training and employment programs and is administered by OEWD in partnership with City College of San Francisco,

various community non-profit organizations, labor unions, and industry employers. CityBuild furthers the City's social justice and employment equity goals by recruiting disadvantaged jobseekers who face or have overcome barriers to employment, including formerly incarcerated workers in communities negatively impacted by the failed war on drugs. CityBuild graduates would be natural candidates for machine operator positions within the cannabis industry as well as the ancillary jobs with construction firms building out new cannabis businesses and at HVAC companies serving these businesses. Taking into account emerging cannabis apprenticeship programs such as the Laborers' Local 261 Cannabis Horticultural Apprenticeship, with some time and resources CityBuild has the potential to expand and create new partnerships to provide pre-apprenticeship and a proven pathway to employment for workers in the cultivation side of the industry as well, helping to ensure diversity and reduce barriers to equitable opportunity in the growing cannabis industry.

#### *Health Care Academy*

The Health Care Academy is designed to improve the responsiveness of the workforce system to meet the demands of the growing health care industry. The health care industry has been identified both nationally and locally as a priority for workforce investment due to stable and/or increasing demand for new workers, replacement of retirees, and the need for skills development in response to new technologies and treatment options. Because the health care sector encompasses occupations in such a wide variety of settings and requiring various levels of education and skill, it presents excellent opportunities for a broad spectrum of local jobseekers. With the Academy offering both clinical and non-clinical training opportunities, partnership with the emerging marijuana sector would enhance workforce efforts for employment opportunities as through pharmacy technician (fill and refill marijuana prescriptions) and patient access reps (clinical customer service representatives that are trained with providing service to those with medical conditions).

#### *Apprenticeship Programs*

Apprenticeship is a means of addressing the workforce needs of our dynamic economy's core and emerging industries by providing paid, on-the-job training and a structured pathway to career advancement. Participants in state-certified apprenticeship programs earn specific wages and benefits that increase as employment hours are accumulated, resulting in the attainment of journey-level status over a period that typically ranges from two to four years. Apprenticeship is a key foundation of the City's workforce development strategy, particularly with respect to the construction and technology sectors. By investing in pre-apprenticeship programs such as CityBuild and TechSF, the Office of Economic and Workforce Development provides an opportunity for economically disadvantaged jobseekers and workers that face or have overcome barriers to employment to become job ready and secure life skills before they become an apprentice. Partnering with employers and labor organizations within a specific sector to craft a pre-apprenticeship curriculum allows OEWD to offer pre-apprenticeship graduates guaranteed or priority access to apprenticeship and the career benefits that await as they work to become journey-level workers in their field. Capacity and resources within our training programs may need to be evaluated depending on how this model evolves. Policy framework for such an apprenticeship program should be robust enough to scale, but should also recognize the nascence of this industry and lack of data for accurate predictions related to job creation.

### *Clean Slate*

Clean Slate is a program of the San Francisco Public Defender's Office that can help people "clean up" their criminal records. The type of cases the Public Defender handles through this program includes: Expungements (misdemeanor & felony convictions including, but not limited to drunk driving, theft, prostitution, burglary, drug offenses, domestic violence, robbery, and assault and battery) and Certificates of Rehabilitation such as State Prison Cases.

### *Fair Chance Ordinance (FCO)*

The Fair Chance Ordinance (FCO) went into effect on August 13, 2014 and regulates the use of arrest and conviction records in employment decisions for certain employers, affordable housing providers, and City contractors. The FCO applies to private employers that are located or doing business in San Francisco, and that employ 20 or more persons worldwide. This 20-person threshold includes owner(s), management, and supervisory employees. Job placement, referral agencies, and other employment agencies are considered employers. You can learn more about the Fair Chance Ordinance here: <https://sfgov.org/olse/sites/default/files/FileCenter/Documents/12136-FCO%20FAQs%20Final.pdf>.

### *Financial Empowerment*

The Office of Financial Empowerment (OFE), housed within the Office of the Treasurer, designs, pilots and expands programs and policies that help low income families build economic security and mobility. Programs such as Smart Money Coaching, which provide one-on-one financial coaching, could be expanded to specifically serve the needs of employees in the cannabis industry. Smart Money Coaching provides free financial coaching to low income San Franciscans at 27 sites in partnership with the Human Services Agency, the Mayor's Office of Housing & Community Development, the Office of Economic and Workforce Development and the Housing Authority. Integrating coaching into existing social service delivery can improve both financial and programmatic outcomes, as well as help scale a high touch coaching service.

Other programs available to assist employees in the cannabis industry include:

- SaverLife, an online program that rewards individuals for consistently saving at least \$20 each month. The program lasts for 6 months and savers can earn a maximum of \$60.
- Bank On San Francisco helps residents access safe, affordable accounts at responsible banks and credit unions.

### *Community Business Priority Processing Program*

The Planning Department has assembled a designated staff to help navigate the application process. The Community Business Priority Processing Program (CB3P)\* streamlines the Conditional Use review process for certain small and mid-sized business applications and provides a simplified and efficient system to get help you out the door faster and open your business sooner. Projects that qualify for and

enroll in the CB3P are guaranteed a Planning Commission hearing date within 90 days of filing a complete application, and placement on the Consent Calendar. Applicants for the CB3P must a) complete a checklist documenting eligibility for participation, b) complete the Conditional Use application and provide associated materials, c) conduct a Pre-Application Meeting prior to filing, and d) provide interior and exterior photos, per Resolution #19323 that established the program. Certain limitations do apply, and CB3P applications are subject to the same level of neighborhood notice, the same Planning Code provisions, and the same (if applicable) CEQA review requirements, and may still be shifted from Consent to Regular Calendar if requested by a Planning Commissioner or member of the public.



## Appendix E. Taxation: State Structure & Review of Other Jurisdictions' Tax Structures

New cannabis taxes have also been authorized under Proposition 64. All cannabis is subject to a 15 percent state excise tax and local governments may also levy their own excise taxes. Standard sales taxes apply as well, although medicinal cannabis is exempt from sales taxes. Further, the state will collect taxes from cultivators at a rate of \$9.25/oz for cannabis flowers and \$2.75/oz for leaves. State tax revenue will fund cannabis-related administrative and enforcement activities as well as new programs to support law enforcement, environmental impact mitigation of cannabis cultivation, university research, and community reinvestment grants.

Anticipating the passage of Prop. 64, over 30 cities and counties in California put cannabis tax measures before voters last November, and nearly all of these measures passed. The average local tax rate on cannabis is around 10 percent, which is in addition to the state's tax of 15 percent.

In some cities, the tax is variable. In San Diego, for instance, the rate starts at 5 percent, increases to 8 percent in 2019, and City Council is authorized to increase the tax by ordinance to a maximum 15 percent. In the City of Los Angeles, voters approved a 10 percent tax on adult-use cannabis sold at retail stores, a 5 percent tax on medicinal cannabis, and lesser taxes on non-retail cannabis businesses, such as testing and manufacturing. All new local taxes that have passed since November 2016 are general fund taxes, meaning tax revenue will support general services in each city or county, rather than a dedicated fund with specific spending requirements.

Locally, the cities of San Jose, Oakland, and Berkeley have levied taxes on cannabis sales since 2010, although prior to Proposition 64, taxes only applied to medicinal cannabis. Each of these cities will tax adult-use cannabis at 10 percent. In Oakland and Berkeley, medicinal cannabis is taxed at lower rates.

While San Francisco does not currently tax cannabis beyond the standard sales tax, local officials and members of the public are beginning to convene to decide on a tax measure to put before voters in an upcoming election.

City & County of San Francisco  
Cannabis Medical Access Report.

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2017 NOV - 1 PM 4:58  
BY 

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## **I. Executive Summary**

On September 5, 2017, the Board of Supervisors unanimously passed Ordinance No. 170859, creating the Office of Cannabis and defining the Office's responsibilities. Within the ordinance, the Board of Supervisors requested that the Office of Cannabis, the Department of Public Health and the Controller's Office deliver to them and the Mayor no later than November 1, 2017, a report analyzing the unique needs of individuals who use cannabis for medicinal purposes and providing recommendations regarding policy options that would (A) preserve affordable and/or free access to medical cannabis patients, (B) ensure medical cannabis patients continue to receive high-quality, appropriate care and (C) providing uninterrupted access to medical cannabis patients.

This report studies the current state of medical access in San Francisco, provides background on the Medical Marijuana Identification Card Program and known characteristics of the card holder community, and provides feedback given to the City through focus groups hosted by the Department of Public Health. Finally, the report makes various recommendations for the City's consideration.

## **II. Introduction**

### *California Medical Cannabis Policy*

In 1996, California became the first state in the U.S. to legalize medical cannabis. Legalization resulted from passage of Proposition 215, the Compassionate Use Act, which was incorporated into California's Health and Safety Code (Sec. 11362.5). Its purpose was to a) ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where the medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief; and b) ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

Senate Bill 420 followed almost a decade later to prescribe personal cultivation and possession limits and establish the right of qualified patients and caregivers to form collectives and cooperatives for the lawful cultivation and distribution of cannabis among members. These laws allowed for medical cannabis access and created city and county-based systems across the State.

Between 2003 and 2015, the commercial cannabis industry grew with few rules and regulations. It wasn't until 2015 and the passage of the Medical Marijuana Regulation and Safety Act that California established a legal framework to regulate and monitor marijuana dispensaries ("AB-243, Medical Marijuana" 2015). Originally set to take effect on January 1, 2016, the Medical Marijuana Regulation and Safety Act was amended via the Medical Cannabis Regulation and Safety Act in June 2016. This updated piece of legislature aimed to incorporate stronger environmental protection policies within a comprehensive licensing system ("SB-643, Medical Marijuana" 2016).

On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA), legalizing the distribution, sale, and possession of marijuana. AUMA was modeled on the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015. In 2017, California sought to create one regulatory system for both medical and recreational use. Therefore, this last June, Governor Jerry Brown signed the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) into law, reconciling the differences between AUMA and MMRSA, a taking a crucial step towards developing a regulatory framework to facilitate a for-profit cannabis sector for both medicinal and adult-use.

### *San Francisco*

In 1991, San Francisco voters passed Proposition P, Hemp Medication, which asked whether or not San Francisco would recommend that the State of California and the California Medical Association restore "hemp medical preparations" to California's official list of medicines (Office of the Registrar of Voters 1991). There were three paid arguments in the ballot in favor of Proposition P, which provided quotes from physicians and cited scientific institutions in arguing for cannabis' medical benefits (Office of the Registrar of Voters 1991). Voters approved the proposition with nearly 80% of the vote (San Francisco Public Library 2017).

In 1999, San Francisco's Health Commission adopted Resolution No. 29-99, "Supporting the Development and Implementation of a Voluntary Medical Cannabis Identification Card Program" (San Francisco Department of Public Health 2000). This resolution supported the development of an identification card program for medical cannabis for individuals who qualified under the Compassionate Use Act as patients or primary caregivers. In 2000, the Board of Supervisors formally created San Francisco's current identification program for medical marijuana (San Francisco Department of Public Health 2000).

On December 3, 2001 the Board of Supervisors passed Resolution No. 01-2006, declaring San Francisco to be a "Sanctuary for Medical Cannabis" (San Francisco Board of Supervisors 2005). They also urged California law enforcement and regulatory agencies to avoid harassing, arresting and prosecuting physicians, dispensaries, patients or caregivers who complied with the Compassionate Use Act.

In 2002, the Board of Supervisors placed Proposition S, titled "Medical Marijuana," on the ballot. The proposition was a declaration of policy, directing the Mayor, Board of Supervisors, District Attorney, City Attorney, and Department of Public Health to explore the possibility of creating a program to grow and distribute medical marijuana (Department of Elections 2002). Proposition S passed with approximately 62% of the vote (San Francisco Public Library 2017).

In March 2005, the Board of Supervisors passed Ordinance No. 64-05, "Zoning – Interim Moratorium on Medical Cannabis Dispensaries" (San Francisco Board of Supervisors 2005). The ordinance expressed concern over the significant increase in the number of individuals enrolled in the city's voluntary medical cannabis identification program, "In 2002, there were approximately 2,200 individuals registered...and

there are now over 5,000 or 7,000 individuals enrolled” (San Francisco Board of Supervisors 2005). The ordinance acknowledged that there were no mechanisms to regulate or monitor medical cannabis dispensaries and therefore imposed a moratorium on new clubs and dispensaries.

On November 22, 2005, the Board of Supervisors unanimously passed Article 33 of the San Francisco Health Code, which provides codes, rules, regulations, and operating procedures for medical cannabis dispensaries (San Francisco Department of Public Health 2005).

As of November 1, 2017, there were 46 licensed dispensaries in the City and County of San Francisco. Though the Department of Public Health has historically been responsible for the dispensary permitting process, following the passage of Proposition 64, San Francisco’s “Budget and Appropriation Ordinance” for the Fiscal Year 2017-2018 established the Office of Cannabis and tasked the Office with coordinating various city departments and state agencies efforts to comprehensively regulate medical and adult-use commercial cannabis activity in 2018.

### **III. Medical Marijuana Identification Card Program**

The California Department of Public Health (CDPH) Medical Marijuana Identification Card Program (MMICP)<sup>1</sup> creates a State-authorized medical marijuana identification card (MMIC) along with a registry database for card holders (i.e. qualified patients and primary caregivers). The card provides legal justification for the possession and use of medical cannabis in California, but the card program is voluntary, meaning not everyone who uses cannabis for medical purposes is required to obtain one. Individuals and/or primary caregivers wishing to apply for a State card must do so through their county of residency, and the San Francisco Department of Public Health (SFDPH) Vital Records department manages this process at the county level.

#### **A. Application Process**

It is important to note that the State program is also confidential, meaning neither CDPH nor SFDPH retains any personal, demographic, or medical information of program applicants and/or card-holders. The identifying and medical information that applicants provide as part of the State application process is returned to the applicant at the time the card is issued. The only information maintained at the county level are the unique identifier that the State assigns to every card holder and the card’s expiration date.

#### **B. County-Level Medical Marijuana Identification Card Program Data**

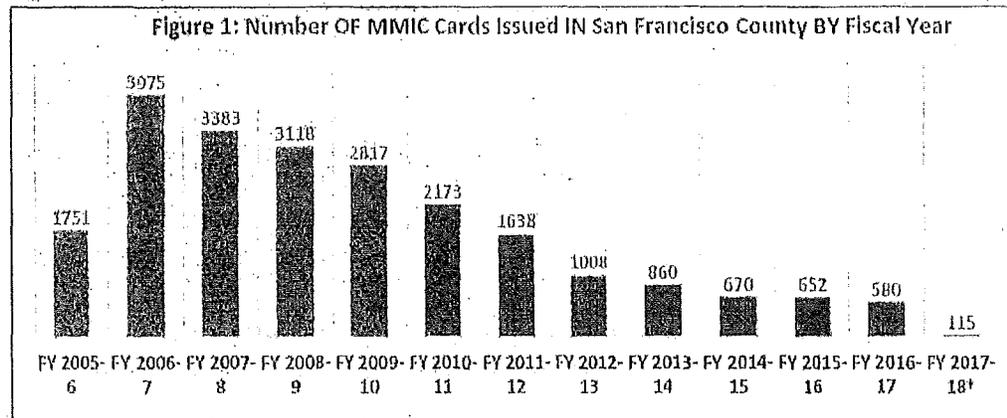
In terms of number of cards issued by county, a recently published California Department of Public Health report notes that, from July 2005 through September 2017 (see figure 1), the San Francisco Department of Public Health issued 22,740 cards—one of the highest amounts across participating counties. This is not to say that there are currently 22,740 patients using medical cannabis in San Francisco, as the card

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<sup>1</sup> See CDPH Medical Marijuana Identification Card Program report, available at <https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/MMPCounty%20Card%20Count%20September%202017-18revADA.pdf>.

must be re-issued on an annual basis. It is also important to note the fluctuation in number of card holders over time, with 3,975 cards issued in fiscal year 2007, 1,638 in fiscal year 2012, 652 cards in fiscal year 2016, and 580 cards in fiscal year 2017.

Figure 1. Number of MMIC Cards Issued in San Francisco by Fiscal Year



\*Fiscal Year 2017-18 reflects the number of cards issued through September 2017.

### C. Medical Marijuana Identification Card Holder Data

As mentioned earlier, the county does not retain general demographic information of applicants or card-holders. One data point that is available to SFDPH is the number of card holders that have requested a card fee reduction as a Medi-Cal program beneficiary. Per State law, Medi-Cal beneficiaries receive a 50% reduction in the fee for the State identification card.<sup>2</sup> The current amount is X.

This information is useful because it provides insight into affordability questions for medical cannabis patients in San Francisco, since the Medi-Cal program serves low-income individuals and families. In general, individuals and families with annual incomes at or below 138 percent of the Federal Poverty level qualify for the program. Figure 2 below<sup>3</sup> provides more information about income levels at 138 percent of the Federal Poverty Level.

<sup>2</sup> The full fee for each card in San Francisco County is currently \$100, with Medi-Cal beneficiary fee reduction bringing the cost down to \$50 dollars. See also California Health and Safety Code Section 11362.755.

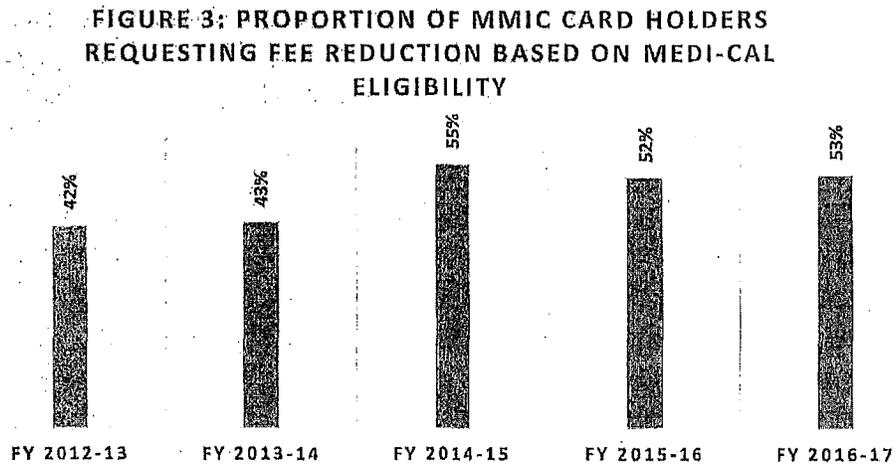
<sup>3</sup> California Department of Health Care Services website, available at <http://www.dhcs.ca.gov/services/med-cal/Pages/DoYouQualifyForMedi-Cal.aspx>.

Figure 2. California Medi-Cal Income Eligibility

Family Size	138% Poverty Level
1	16,395
2	22,108
2 Adults	22,108
3	27,821
4	33,534
5	39,248
6	44,961
7	50,688
8	56,429
9	62,169
10	67,910
11	73,651
12	79,392
Each Additional Person	Add 5,741

Figure 3 below<sup>4</sup> shows the proportion of State card holders in San Francisco that requested a card fee reduction based on Medi-cal eligibility from fiscal year 2013 through fiscal year 2017. The figure shows that over the past few fiscal years, over half of all card holders in San Francisco made such requests.

Figure 3. Proportion of MMIC Card Holders Requesting Fee Reduction Based on Medi-Cal Eligibility



<sup>4</sup> SFDPH files.

## IV. Focus Group Narratives

### A. Methodology

In order to provide the City's policymakers and the Office of Cannabis with a comprehensive view of the medical cannabis cost and affordability landscapes, the Department of Public Health conducted three separate focus groups where discussions outlined concerns and participants put forth solutions to alleviate those concerns. Where individuals were unable to participate in person, the Department collected responses via phone and email. Over three focus group sessions, the Department interviewed sixteen individuals.

The focus groups included representatives from the below stakeholder categories, and Department of Public Health staff strived for a balance of race, gender and sexual orientation within each focus group.

- Medical cannabis patients
- Medical cannabis patient advocates
- Medical cannabis business owners – storefront and delivery only
- Public policy experts

As part of the discussions, focus group participants also noted their experiences with homelessness, living with HIV, behavioral health issues, living with a disability, and past military service. It is also important to note that many focus group participants felt they represented more than one category above.

Each focus group discussed the following questions:

1. In your experience, how is the medical cannabis patient community reacting to State and local changes to the medical cannabis regulatory framework?
2. What is the general feeling among patients about the cost of medical cannabis in the new medical cannabis regulatory market? How does the addition of the adult use market factor into the discussion?
3. What is the general feeling among patients about the State medical cannabis identification card? Do people generally know how to apply, where to get it and that there is a fee associated with obtaining it?
4. Do you have ideas and suggestions about how the City could address concerns you've mentioned? For example, what would the elements of a compassionate care program be in San Francisco?

The following information, in no particular order, is a compilation of the main discussion points from all focus groups, and where there was general consensus or agreement across focus groups, it is noted.

## B. Medical Cannabis Community Reactions and Concerns: Focus Group Responses

1. In your experience, how is the medical cannabis patient community reacting to State and local changes to the medical cannabis regulatory framework?
2. What is the general feeling among patients about the cost of medical cannabis in the new regulatory market? How does the addition of the adult use market factor into the discussion?

Responses to the above questions are noted below.

*Preserving San Francisco's Compassionate Care Model.* Focus group participants affirmed that patients use cannabis as an alternative to prescription drugs, a harm reduction tool, and as an important treatment option for a wide variety of conditions, and that the State and City needed to appropriately recognize this as a significant benefit to individuals with medical needs. Participants also noted that the current medical cannabis structure and future adult use system would not have been possible without the steadfast dedication of the current medical cannabis community, and, for that reason, the City should elevate those needs.

With regard to the current and future landscapes, one participant noted that patients are currently benefitting from an increase in available products as new dispensaries enter the medical market and lowered prices due to increased market competition, further noting that in the newly regulated market, patients can also expect to benefit further from guidelines designed to make cannabis and cannabis products safer. This participant stated that patients they have encountered feel excited, but also apprehensive and uncertain about how the medical and adult use markets will affect one another and how new regulations will affect the medical cannabis market, specifically. This individual believed that these feelings would remain until State and local medical and adult use legislation and regulations are finalized, and that the longer that process takes, the more uncertainty the cannabis industry will experience.

One overarching concern across focus groups was that current State law<sup>5</sup> does not allow for compassionate care to continue in San Francisco in the way that patients have accessed it in the past, access it currently, and envision it for the future. Focus group members felt that if this issue is not addressed, the City runs the risk of eliminating compassionate care altogether. One meeting participant noted that, though the pending State medical and adult use cannabis regulatory systems should be streamlined wherever possible for efficiency purposes, this was an area where the adult use and medical cannabis markets should differ significantly. Underlying concerns stemming from these statements were as follows:

- *Cost for Patients.* Participants in each focus group highlighted the issue of cost for patients in the newly regulated medical cannabis market, especially for low-income and indigent patients, immobile patients, and those experiencing homelessness. To some participants, the cost of

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<sup>5</sup> These concerns would also apply to any provisions within the current proposed local ordinance that codify the relevant State law provisions.

medical cannabis is already at unaffordable levels for many, and patients and patient advocates in each focus group were concerned about the ability for them to access the market in the face of new State and local regulations, where the regulatory cost would likely be passed on to consumers. There was also concern about the added burden of State and (possible) local taxation structures. According to some, patients generally prefer regulated, lab-tested medical cannabis, but one serious consequence of exorbitant taxes would be a proliferation of the illicit market, where medical cannabis would likely be cheaper. State law does exempt medical cannabis patients with the aforementioned State-issued card from State sales tax,<sup>6</sup> but there was consensus across focus groups that this exemption does not go far enough to reduce cost barriers for patients.

- *Prohibition against Samples, Free and Discounted Cannabis.* State Law currently prohibits the giving away of cannabis and cannabis products as part of a business promotion or commercial activity.<sup>7</sup> This has been interpreted to disallow the giving of cannabis samples and cannabis/cannabis products at discounted or no cost to individual consumers and/or other businesses, which are current practices in San Francisco's medical cannabis market. Participants across the focus groups were strongly opposed to these State law provisions since, according to them, such practices are critical for maintaining a functional compassionate care program. For example, patients rely on samples to test products in hopes of finding one that alleviates symptoms, and it would be cost-prohibitive for patients to instead have to purchase each item at full price at the outset.

Further, State law also requires that all cannabis and cannabis products be tagged with a unique identifier, known as a "track and trace" system.<sup>8</sup> There was a concern that this could conflict with any local policy allowing for donations or samples, since those cannabis items would not be moving through the commercial system the way State law currently envisions. For example, some medical cannabis businesses currently receive anonymous cannabis and cannabis product donations that they then distribute to patients, and such a track and trace system would deter those donors from continuing a practice that, in their view, facilitates continued and affordable access for low-income patients.

- *Phased Elimination of the Collective/Cooperative Model.* In establishing a State-regulated medical cannabis market, State law also eventually phases out the current collective/cooperative medical cannabis model.<sup>9</sup> According to focus group participants, this would eliminate a critical community-sharing element of San Francisco's current compassionate care practices.

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<sup>6</sup> The Adult Use of Marijuana Act – Proposition 64, Section 34011.

<sup>7</sup> Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) Section 26153.

<sup>8</sup> The Adult Use of Marijuana Act – Proposition 64, Section 26170.

<sup>9</sup> Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) Section 11362.775

- *Product Type and Dosage Inflexibility.* Current State law limits edible cannabis product THC content to 10 milligrams per serving size in both the medical and adult use markets,<sup>10</sup> and previously proposed State regulations<sup>11</sup> limited the total THC amount per package to 100 milligrams. The proposed State regulations also placed a 1,000-milligram THC limit on non-edible cannabis products in both markets.<sup>12</sup> Focus group participants identified two main problems with this approach. First, there is often a need for patients to consume higher dosages than individuals in the adult use market because medical condition treatment plans and cannabis metabolism rates differ per individual, and, since State law does not currently allow for patients to obtain cannabis at little to no cost, this limitation would require patients to purchase multiple products to reach their required dosage levels, which is cost-prohibitive. Second, some participants noted that the pending State cannabis regulations would likely limit the types of edible cannabis products that can be produced, which they felt would provide primarily for preservative-heavy and sugar-laden products, lead to high caloric intake among patients if they must consume multiple servings, and create potential health issues as a result.
- *Cannabis License Fees.* Some focus group participants cited State and (possible) local cannabis permit fees<sup>13</sup> as a potential cost barrier for true compassionate care businesses that wish to continue providing cannabis and services to low-income patients in San Francisco.
- *Medical Cannabis for Patients Under 18.* State law currently prohibits the production of cannabis products that are considered appealing to children.<sup>14</sup> Focus group participants noted that some children who use medical cannabis would benefit from products that are designed to make consumption palatable for them.

*Lack of Dedicated Consumption Spaces for Patients.* All focus groups noted that, for medical cannabis patients, consuming their medicine is often a social experience that is important for the healing process, and that there were not enough existing spaces in San Francisco for this purpose.

*Driving Under the Influence Determinations.* There was concern in one focus group about the process the State and City will undertake in determining whether an individual is driving under the influence. A process that considers only whether THC is present in the system, and not whether driving is actually

<sup>10</sup> Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) Section 26130 (c).

<sup>11</sup> See California Department of Public Health Proposed Regulations Comment Summary and Response, available at [https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20\(Final%20on%20CDPH%20Letterhead\).pdf](https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20(Final%20on%20CDPH%20Letterhead).pdf).

<sup>12</sup> See California Department of Public Health Proposed Regulations Comment Summary and Response, available at [https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20\(Final%20on%20CDPH%20Letterhead\).pdf](https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20(Final%20on%20CDPH%20Letterhead).pdf).

<sup>13</sup> Local cannabis permit fees have not yet been determined, but focus group participants thought they would likely be a cost barrier once established, especially when considered alongside a State license fee.

<sup>14</sup> Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) Section 26130 (c).

impaired as a result, will negatively affect patients, especially those who require relatively high THC doses as part of their treatment plans.

*Safe Consumption Information for Patients.* Meeting participants noted that safe consumption information currently varied across dispensaries, which could lead to misinformation and unsafe patient consumption practices.

### C. State Medical Cannabis Identification Card – Focus Group Responses

3. What is the general feeling among patients about the State medical cannabis ID card? Do people generally know how to apply, where to get it and that there is a fee associated with obtaining it?

Responses to the above questions are noted below.

There was general consensus across focus groups that many patients in San Francisco are currently unaware of the State card program and/or how to obtain a card. Participants noted that some current businesses were not appropriately applying the State sales tax exemption for medical cannabis patients who possess the card, and that this would likely continue without widespread education about the program for business owners, their employees and medical cannabis patients. One participant suggested that the Health Department lead this educational effort and increase accessibility by also educating providers that do not commonly interact with medical cannabis patients and may be unfamiliar with program guidelines, and developing informational materials for display at dispensaries and doctors' offices.

With the onset of adult use commercial activity and consumption, there was a concern that medical cannabis patients may bypass the medical market and instead obtain cannabis in the adult use market due to public stigma surrounding medical cannabis use, as well as misconceptions about the type of information that is stored within the medical cannabis identification program database and how that may affect current/future employment opportunities and the ability to purchase a firearm.<sup>15</sup>

In contrast, one participant noted that it was difficult to predict the effect of the adult use market on the MMIC program, but suggested that increased taxation levels for medical cannabis and a possible lack of San Francisco-based adult use retailers in early January, 2018, may significantly increase State card utilization. Others felt that adult use legalization and consumption would have a positive effect on the medical market and card utilization, since more people would be comfortable with cannabis use in general.

<sup>15</sup> The Bureau of Alcohol, Tobacco, Firearms and Explosives issued a memorandum to all firearms licensees in 2011 clarifying that federal law prohibits unlawful users of controlled substances, as defined by the federal Controlled Substances Act, from receiving or possessing firearms or ammunition. See Bureau memorandum, available at <http://71.11.3.134/share/PDF/ATFOpenLetter092111.pdf>.

#### D. Ideas and Suggestions – Focus Group Responses

4. Do you have ideas and suggestions about how the City could address the concerns you've mentioned? For example, what would the elements of a compassionate care program be in San Francisco?

Responses to the above questions are noted below.

*City Advocacy at the State Level to Preserve Current Compassionate Care Programs.* Each focus group highlighted the need for the City to advocate at the State level to allow:

- businesses to provide cannabis samples and cannabis free of charge and/or at a discounted cost to medical cannabis patients
- anonymous donations to compassionate care locations
- businesses to produce high dosage products for medical cannabis patients

Focus group participants felt that such advocacy would allow compassionate care to continue in the City in its current form.

*Establish a Citywide Compassionate Care Program.* Within the context of the aforementioned State level advocacy, focus group participants thought the City could create a program with the following possible characteristics:

**Program Eligibility Criteria.** Using income as the overarching criterion, San Francisco residents with medical cannabis need who are enrolled in Medi-Cal (or would qualify if they applied), low-income seniors (i.e. individuals over 50), immobile patients, and veterans would qualify for the City program. To capture as many individuals as possible, the City could also consider enrollment in other existing programs serving low-income San Franciscans as proof of compassionate care program eligibility. To limit the risk of federal intervention and adverse consequences for patients who receive federal assistance, the City could use the current MMIC application process as a record retention model. Focus group participants also highlighted the importance of discretion and preserving the confidentiality of those accessing the program.

**Program Elements.** Focus groups put forth the following possibilities:

- Program participants would be able to purchase medical cannabis and any medical cannabis product at cost of production.
- Program participants would be able to access current compassionate care services at individual medical cannabis dispensaries, e.g. samples, cannabis and cannabis products at little to no cost.
- San Francisco could create event permits for compassionate care events across the City, where patients and businesses could provide samples, share cannabis and cannabis products, and provide free or discounted cannabis to program participants.

- San Francisco could allow current medical cannabis collective/cooperative businesses to continue their operations as they currently exist.
- Any reduced cost policies the City establishes for patients would also apply to adult use cannabis and cannabis products.
- Some participants specifically referenced a 2007 San Francisco Board of Supervisors resolution<sup>16</sup> that encouraged cannabis dispensaries to establish compassionate care programs, noting that it already includes many principles that the City could codify Citywide (e.g. prioritizing seniors and veterans).

Citywide Compassionate Care Card. Separate from the State-issued medical cannabis Identification card, a county-based card could be issued to individuals who qualify for the program. Some focus group participants referenced a previous San Francisco county medical cannabis identification card program that was deactivated with the establishment of the State-issued card, suggesting that the City's card program could be reactivated for this purpose. Focus group members also felt the card should be issued at little to no cost to program participants.

Program Funding Mechanisms. Focus group participants suggested that a fund be established to support the City's Compassionate Care program in whatever form(s) it eventually takes. Due to the inability for many cannabis businesses to access banking services, it was advised that the City create the fund and that a stakeholder group that includes cannabis businesses oversee the fund's revenue allocation process. Some focus group participants suggested that the fund also be used to subsidize the licensing fees for compassionate care businesses and/or the operating costs of a compassionate care community center suggested elsewhere in this report. Focus groups suggested three main funding mechanisms:

- *Round-Up Mechanism.* At the point of sale in either the medical or adult use markets, consumers could choose to donate to the fund by "rounding up" the cost of their purchase. For example, if a consumer purchased a cannabis product at 47 dollars, the total price could be rounded up to 50 dollars, with the remaining three dollars donated to the program.
- *Business contributions.* Under this model, cannabis businesses would be required to set aside a portion of their profits to fund the program, or the City could instead make such contributions voluntary. Some participants preferred a voluntary option to a mandated contribution.
- *Business Program Start Up Funds.* Here, cannabis businesses would voluntarily contribute immediate funding for the program, with the City then assuming responsibility for continued funding after the initial contribution.

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<sup>16</sup> See San Francisco Board of Supervisors 2007 Resolution urging Medical Cannabis Dispensaries to Implement Compassionate Care Programs to Serve Low and No Income Patients, available at <http://sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions07/r0623-07.pdf>.

*City Advocacy at the State Level to Support Additional Compassionate Care Aspects.* In the course of discussion, focus group participants highlighted other areas where advocacy would be needed to further support compassionate care goals.

- *Exempt Medical Cannabis Cultivators from Taxation.* According to some, establishing a tax exemption for medical cannabis cultivators would incentivize them to donate to compassionate care programs and increase cannabis availability for patients.
- *Donate Seized Cannabis and Cannabis Products to Compassionate Care Programs.* When cannabis is seized as a result of law enforcement intervention, some focus group participants felt it should not be destroyed. Rather, it could be donated to the City's compassionate care program and subsequently redistributed to patients.
- *Create Cannabis Product Exemption for Children with Medical Cannabis Needs.* The City should allow cannabis products that may be appealing to children to be provided for those with medical need.
- *Expand the types of cannabis products to include healthier options.*
- *Discourage the narrowing of qualifying conditions.* The City should view individual interactions between patients and physicians as the primary mechanism for determining whether medical cannabis use is warranted.
- *Create employment protections for medical cannabis card holders and compassionate care program participants.*

*Establish a Municipal Growing Framework.* Some focus group participants felt the City should consider municipal cultivation as a way to provide cannabis at lower cost to patients. City voters passed Proposition S in 2002,<sup>17</sup> which urged the City to explore this option, and the aforementioned focus group participants would support further discussion and action on this issue.

*Create Additional Consumption Locations for Patients.* Each focus group highlighted a need for additional medical cannabis consumption (i.e. smoking, vaping and product ingestion/use) locations in the City, especially if federal law continues to prohibit consumption in public housing. Some participants advocated for separate medical use consumption spaces to preserve a treatment-based environment for patients, adding that such spaces should not require a minimum purchase level in order to access the consumption area. Others underscored the need for community centers where patients can both consume their medicine and engage in harm reduction programs and activities, suggesting that the City reserve spaces in the City where such community centers can thrive and subsidize operational costs for those centers.

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<sup>17</sup> See Proposition S language and ballot results at [https://sfpl.org/pdf/main/gic/elections/November5\\_2002.pdf](https://sfpl.org/pdf/main/gic/elections/November5_2002.pdf) and <https://sfpl.org/index.php?page=2000027201&propid=1683>.

*Prioritize Delivery Services.* For many immobile patients, medical cannabis delivery services are critical and should be prioritized within the City's cannabis regulatory framework.

*Reinstate Historical Compassionate Care Locations.* According to some focus group participants, a number of compassionate care locations were closed in the past due to federal intervention or an inability to thrive within the City's Medical Cannabis Act (Article 33) framework. Those participants felt the City should assist these businesses in re-establishing themselves in San Francisco in order to strengthen the compassionate care network.

*Reduce Fee for State Medical Cannabis Identification Card.* To increase affordability, the City should lower the current cost of the State-issued medical cannabis identification card.

*Establish Patient Advisory Committee.* The City should establish an advisory committee, consisting primarily of a diverse set of medical cannabis patients, and possibly businesses, to oversee the process of establishing and maintaining a compassionate care program.

*Education for Patients and Recommending Physicians.* Safe consumption information should be distributed to patients, and this information should be standardized across dispensaries and compassionate care locations in the City. Physicians must also be properly educated about how to provide cannabis recommendations that allow dispensaries to provide the correct cannabis treatment options.

#### **A Successful Compassionate Care Framework in San Francisco – Focus Group Responses**

Focus groups also discussed the need to ensure that San Francisco's compassionate care framework is successful, and made the following suggestions for how success could be defined:

- *Patients with Real Medical Need are Able to Access Cannabis at Affordable Cost.* Here, focus group participants advised the City to establish a robust educational campaign for the compassionate care program that uses a variety of communication outlets, including television, radio, and newsprint, to promote the program and ensure that there is widespread and far-reaching patient participation. Participants also suggested that the City develop a survey that would provide useful feedback for the City as to medical cannabis accessibility. Finally, it was suggested that the City consider mechanisms to prevent abuse of the program and hence ensure that patients with actual need are able to easily participate.
- *Cannabis Businesses of Varying Size are Able to Participate in the Program.* In this regard, one participant encouraged the City to consider the impact of any compassionate care program requirements on businesses of varying size and avoid creating a system that rewards non-compliance or places an undue burden on smaller businesses that will find it more difficult to absorb the cost of new State and local medical cannabis business regulations. That individual went on to note that establishing a compassionate care program would likely be an iterative process, since there is uncertainty at the moment about how the adult use market will fare in

San Francisco, so transparency about the program and how businesses can comply will be critical, especially during the initial implementation period.

Some focus group participants felt that the aforementioned patient advisory committee could be tasked with providing ongoing guidance to the City in this area.

## **V. Findings & Recommendations**

Based on Focus Group comments and concerns raised in the sessions by participants, the report finds the following, and makes associated recommendations:

**Finding 1 – Continued Access to Medical Cannabis:** The City has a long history of providing medical cannabis to patients, and this access to should continue in 2018 and beyond.

Recommendation:

- A. The City should require all retailers to maintain medical use as a condition of their permit.
- B. The City should further prioritize permit processing for medical only applicants.

**Finding 2 – Cost Concerns:** There are concerns that patients, particularly low income and indigent patients, will not be able to afford medical cannabis.

Recommendation:

- A. Compassion programs should be targeted to low income and indigent populations, veterans, and patient populations who can identify need.
- B. The City should remain thoughtful about the tax burden on the medical cannabis supply chain and patient consumers when crafting a local tax structure.
- C. The City should allow samples in certain circumstances, to allow patient consumers to test products before having to purchase products at full or reduced cost.
- D. The City should advocate for dosage flexibility for medical products at the State level if higher dosage levels are not addressed in emergency regulations this November.

**Finding 3 – Clarity and Advocacy for State Allowance of Compassion Programs:** Stakeholders would like the City to advocate for Compassion Programs that reflect San Francisco's values.

Recommendation:

- A. The City should advocate to the State to allow counties to maintain compassion programs, and provide clear regulations related to compassion programs within the M-Type supply chain.

**Finding 4 – Preservation of Compassionate Care Model:** The compassionate care model has provided patients with access to medicinal cannabis, is an important harm reduction tool, and these programs should be maintained.

Recommendation:

- A. Similar to the mandate passed unanimously by the Board of Supervisors in File No. 071505 (2007);<sup>18</sup> the City should create a compassion program or allow for retailers to establish their own compassion program. Descriptions of these programs and how the program will meet track and trace requirements should be detailed in their application for an Article 16 permit.
- B. The City should consider the creation of nonprofit licenses for compassionate care programs in 2018. This could include contemplating a lower license fee.
- C. The City should allow for flexibility in implementing a Compassion Program. An example of this is the City could create a Compassion Fund administered by the City. In lieu of creating an onsite program, retailers could provide a percentage of monthly gross revenue to this fund to offset licensing fees for future nonprofit permit permits and costs of products.

**Finding 5 – Determine Eligibility:** There is a need to create eligibility criteria that is discrete and confidential to ensure patient privacy.

Recommendation:

- A. The City should leverage its existing programs, such as the Medical Marijuana Identification Card (MMIC) program, as a pathway to a) determine eligibility and 2) provide a method by which patients can prove their eligibility to retailers or potential nonprofits. This resource should be provided at little to no cost to the patient.

**Finding 6 – Consumption Space:** Consumption of medical cannabis can be a social experience, therefore, patients would like spaces to be provided that allow for social consumption.

Recommendation:

- A. The City should encourage the retention of existing Medicinal Cannabis Consumption Space.
- B. The City should disallow retailers from mandating a certain amount of product be purchased in order to access the onsite smoking/vaping/consumption lounge.

**Finding 7 – Safe Consumption Information:** Patient consumers would benefit from having access to consistent education related to safe consumption.

Recommendation:

- A. The Department of Public Health should create fact based information to be provided to all consumers including patients at the point of sale.

**Finding 8 – Advocacy for Patient Community:** The City would benefit from continued advice from patients, patient advocates, and businesses.

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<sup>18</sup> San Francisco Board of Supervisors, File No. 071505, 2007.  
<http://sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions07/r0623-07.pdf>.

Recommendation:

- A. The City should amend the Cannabis State Legalization Task Force membership to ensure a broad set of stakeholders representing patient advocacy are reflected in the makeup of the body, and can further inform and advise future task force recommendations, notably about the evolution of policy related to compassion programs. One of these members should have experience in running a non-profit compassion program.

**Finding 9 – Data & Accountability: The City needs to gather data and report out on it regularly to ensure we are iterating our policies and meeting our goals.**

Recommendation:

- A. The Office of Cannabis and the Health Department should continue to monitor the effects of cannabis legalization on medical cannabis use in San Francisco.
- B. Data collection should be consistent with patient privacy guidelines, and should be incorporated into the Office of Cannabis' overall data management strategy.
- C. The Office of Cannabis in collaboration with the Department of Public Health should provide a report and recommendations to further inform the City's path forward with medical cannabis by December 31, 2018.

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## **I. Executive Summary**

On September 5, 2017, the Board of Supervisors unanimously passed Ordinance No. 170859, creating the Office of Cannabis and defining the Office's responsibilities. Within the ordinance, the Board of Supervisors requested that the Office of Cannabis, the Department of Public Health and the Controller's Office deliver to them and the Mayor no later than November 1, 2017, a report analyzing the unique needs of individuals who use cannabis for medicinal purposes and providing recommendations regarding policy options that would (A) preserve affordable and/or free access to medical cannabis patients, (B) ensure medical cannabis patients continue to receive high-quality, appropriate care and (C) providing uninterrupted access to medical cannabis patients.

This report studies the current state of medical access in San Francisco, provides background on the Medical Marijuana Identification Card Program and known characteristics of the card holder community, and provides feedback given to the City through focus groups hosted by the Department of Public Health. Finally, the report makes various recommendations for the City's consideration.

## **II. Introduction**

### *California Medical Cannabis Policy*

In 1996, California became the first state in the U.S. to legalize medical cannabis. Legalization resulted from passage of Proposition 215, the Compassionate Use Act, which was incorporated into California's Health and Safety Code (Sec. 11362.5). Its purpose was to a) ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where the medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief; and b) ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

Senate Bill 420 followed almost a decade later to prescribe personal cultivation and possession limits and establish the right of qualified patients and caregivers to form collectives and cooperatives for the lawful cultivation and distribution of cannabis among members. These laws allowed for medical cannabis access and created city and county-based systems across the State.

Between 2003 and 2015, the commercial cannabis industry grew with few rules and regulations. It wasn't until 2015 and the passage of the Medical Marijuana Regulation and Safety Act that California established a legal framework to regulate and monitor marijuana dispensaries ("AB-243, Medical Marijuana" 2015). Originally set to take effect on January 1, 2016, the Medical Marijuana Regulation and Safety Act was amended via the Medical Cannabis Regulation and Safety Act in June 2016. This updated piece of legislature aimed to incorporate stronger environmental protection policies within a comprehensive licensing system ("SB-643, Medical Marijuana" 2016).

On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA), legalizing the distribution, sale, and possession of marijuana. AUMA was modeled on the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015. In 2017, California sought to create one regulatory system for both medical and recreational use. Therefore, this last June, Governor Jerry Brown signed the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) into law, reconciling the differences between AUMA and MMRSA, a taking a crucial step towards developing a regulatory framework to facilitate a for-profit cannabis sector for both medicinal and adult-use.

### *San Francisco*

In 1991, San Francisco voters passed Proposition P, Hemp Medication, which asked whether or not San Francisco would recommend that the State of California and the California Medical Association restore "hemp medical preparations" to California's official list of medicines (Office of the Registrar of Voters 1991). There were three paid arguments in the ballot in favor of Proposition P, which provided quotes from physicians and cited scientific institutions in arguing for cannabis' medical benefits (Office of the Registrar of Voters 1991). Voters approved the proposition with nearly 80% of the vote (San Francisco Public Library 2017).

In 1999, San Francisco's Health Commission adopted Resolution No. 29-99, "Supporting the Development and Implementation of a Voluntary Medical Cannabis Identification Card Program" (San Francisco Department of Public Health 2000). This resolution supported the development of an identification card program for medical cannabis for individuals who qualified under the Compassionate Use Act as patients or primary caregivers. In 2000, the Board of Supervisors formally created San Francisco's current identification program for medical marijuana (San Francisco Department of Public Health 2000).

On December 3, 2001 the Board of Supervisors passed Resolution No. 01-2006, declaring San Francisco to be a "Sanctuary for Medical Cannabis" (San Francisco Board of Supervisors 2005). They also urged California law enforcement and regulatory agencies to avoid harassing, arresting and prosecuting physicians, dispensaries, patients or caregivers who complied with the Compassionate Use Act.

In 2002, the Board of Supervisors placed Proposition S, titled "Medical Marijuana," on the ballot. The proposition was a declaration of policy, directing the Mayor, Board of Supervisors, District Attorney, City Attorney, and Department of Public Health to explore the possibility of creating a program to grow and distribute medical marijuana (Department of Elections 2002). Proposition S passed with approximately 62% of the vote (San Francisco Public Library 2017).

In March 2005, the Board of Supervisors passed Ordinance No. 64-05, "Zoning – Interim Moratorium on Medical Cannabis Dispensaries" (San Francisco Board of Supervisors 2005). The ordinance expressed concern over the significant increase in the number of individuals enrolled in the city's voluntary medical cannabis identification program, "In 2002, there were approximately 2,200 individuals registered...and

there are now over 5,000 or 7,000 Individuals enrolled” (San Francisco Board of Supervisors 2005). The ordinance acknowledged that there were no mechanisms to regulate or monitor medical cannabis dispensaries and therefore imposed a moratorium on new clubs and dispensaries.

On November 22, 2005, the Board of Supervisors unanimously passed Article 33 of the San Francisco Health Code, which provides codes, rules, regulations, and operating procedures for medical cannabis dispensaries (San Francisco Department of Public Health 2005).

As of November 1, 2017, there were 46 licensed dispensaries in the City and County of San Francisco. Though the Department of Public Health has historically been responsible for the dispensary permitting process. Following the passage of Proposition 64, San Francisco’s “Budget and Appropriation Ordinance” for the Fiscal Year 2017-2018 established the Office of Cannabis and tasked the Office with coordinating various city departments and state agencies efforts to comprehensively regulate medical and adult-use commercial cannabis activity in 2018.

### **III. Medical Marijuana Identification Card Program**

The California Department of Public Health (CDPH) Medical Marijuana Identification Card Program (MMICP)<sup>1</sup> creates a State-authorized medical marijuana identification card (MMIC) along with a registry database for card holders (i.e. qualified patients and primary caregivers). The card provides legal justification for the possession and use of medical cannabis in California, but the card program is voluntary, meaning not everyone who uses cannabis for medical purposes is required to obtain one. Individuals and/or primary caregivers wishing to apply for a State card must do so through their county of residency, and the San Francisco Department of Public Health (SFDPH) Vital Records department manages this process at the county level.

#### **A. Application Process**

It is important to note that the State program is also confidential, meaning neither CDPH nor SFDPH retains any personal, demographic, or medical information of program applicants and/or card-holders. The identifying and medical information that applicants provide as part of the State application process is returned to the applicant at the time the card is issued. The only information maintained at the county level are the unique identifier that the State assigns to every card holder and the card’s expiration date.

#### **B. County-Level Medical Marijuana Identification Card Program Data**

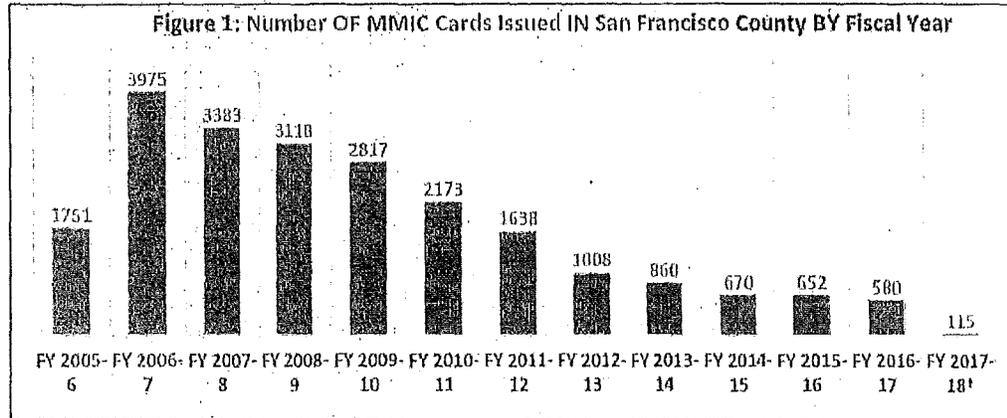
In terms of number of cards issued by county, a recently published California Department of Public Health report notes that, from July 2005 through September 2017 (see figure 1), the San Francisco Department of Public Health issued 22,740 cards—one of the highest amounts across participating counties. This is not to say that there are currently 22,740 patients using medical cannabis in San Francisco, as the card

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<sup>1</sup> See CDPH Medical Marijuana Identification Card Program report, available at <https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/MMPCounty%20Card%20Count%20September%202017-18revADA.pdf>.

must be re-issued on an annual basis. It is also important to note the fluctuation in number of card holders over time, with 3,975 cards issued in fiscal year 2007, 1,638 in fiscal year 2012, 652 cards in fiscal year 2016, and 580 cards in fiscal year 2017.

Figure 1. Number of MMIC Cards Issued In San Francisco by Fiscal Year



\*Fiscal Year 2017-18 reflects the number of cards issued through September 2017.

### C. Medical Marijuana Identification Card Holder Data

As mentioned earlier, the county does not retain general demographic information of applicants or card-holders. One data point that is available to SFDPH is the number of card holders that have requested a card fee reduction as a Medi-Cal program beneficiary. Per State law, Medi-Cal beneficiaries receive a 50% reduction in the fee for the State identification card.<sup>2</sup> The current amount is X.

This information is useful because it provides insight into affordability questions for medical cannabis patients in San Francisco, since the Medi-Cal program serves low-income individuals and families. In general, individuals and families with annual incomes at or below 138 percent of the Federal Poverty level qualify for the program. Figure 2 below<sup>3</sup> provides more information about income levels at 138 percent of the Federal Poverty Level.

<sup>2</sup> The full fee for each card in San Francisco County is currently \$100, with Medi-Cal beneficiary fee reduction bringing the cost down to \$50 dollars. See also California Health and Safety Code Section 11362.755.

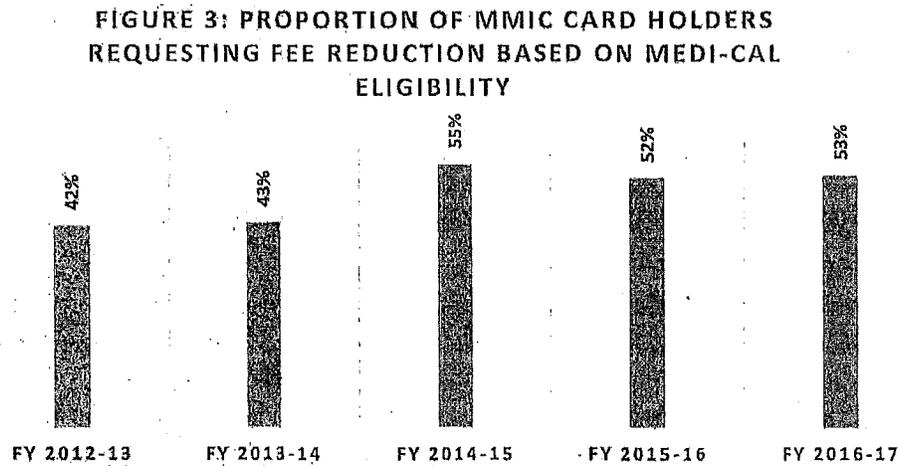
<sup>3</sup> California Department of Health Care Services website, available at <http://www.dhcs.ca.gov/services/medi-cal/Pages/DoYouQualifyForMedi-Cal.aspx>.

Figure 2. California Medi-Cal Income Eligibility

Family Size	138% Poverty Level
1	16,395
2	22,108
2 Adults	22,108
3	27,821
4	33,534
5	39,248
6	44,961
7	50,688
8	56,429
9	62,169
10	67,910
11	73,651
12	79,392
Each Additional Person	Add 5,741

Figure 3 below<sup>4</sup> shows the proportion of State card holders in San Francisco that requested a card fee reduction based on Medi-cal eligibility from fiscal year 2013 through fiscal year 2017. The figure shows that over the past few fiscal years, over half of all card holders in San Francisco made such requests.

Figure 3. Proportion of MMIC Card Holders Requesting Fee Reduction Based on Medi-Cal Eligibility



<sup>4</sup> SEDPH files.

## IV. Focus Group Narratives

### A. Methodology

In order to provide the City's policymakers and the Office of Cannabis with a comprehensive view of the medical cannabis cost and affordability landscapes, the Department of Public Health conducted three separate focus groups where discussions outlined concerns and participants put forth solutions to alleviate those concerns. Where individuals were unable to participate in person, the Department collected responses via phone and email. Over three focus group sessions, the Department interviewed sixteen individuals.

The focus groups included representatives from the below stakeholder categories, and Department of Public Health staff strived for a balance of race, gender and sexual orientation within each focus group.

- Medical cannabis patients
- Medical cannabis patient advocates
- Medical cannabis business owners – storefront and delivery only
- Public policy experts

As part of the discussions, focus group participants also noted their experiences with homelessness, living with HIV, behavioral health issues, living with a disability, and past military service. It is also important to note that many focus group participants felt they represented more than one category above.

Each focus group discussed the following questions:

1. In your experience, how is the medical cannabis patient community reacting to State and local changes to the medical cannabis regulatory framework?
2. What is the general feeling among patients about the cost of medical cannabis in the new medical cannabis regulatory market? How does the addition of the adult use market factor into the discussion?
3. What is the general feeling among patients about the State medical cannabis identification card? Do people generally know how to apply, where to get it and that there is a fee associated with obtaining it?
4. Do you have ideas and suggestions about how the City could address concerns you've mentioned? For example, what would the elements of a compassionate care program be in San Francisco?

The following information, in no particular order, is a compilation of the main discussion points from all focus groups, and where there was general consensus or agreement across focus groups, it is noted.

## B. Medical Cannabis Community Reactions and Concerns: Focus Group Responses

1. In your experience, how is the medical cannabis patient community reacting to State and local changes to the medical cannabis regulatory framework?
2. What is the general feeling among patients about the cost of medical cannabis in the new regulatory market? How does the addition of the adult use market factor into the discussion?

Responses to the above questions are noted below.

*Preserving San Francisco's Compassionate Care Model.* Focus group participants affirmed that patients use cannabis as an alternative to prescription drugs, a harm reduction tool, and as an important treatment option for a wide variety of conditions, and that the State and City needed to appropriately recognize this as a significant benefit to individuals with medical needs. Participants also noted that the current medical cannabis structure and future adult use system would not have been possible without the steadfast dedication of the current medical cannabis community, and, for that reason, the City should elevate those needs.

With regard to the current and future landscapes, one participant noted that patients are currently benefitting from an increase in available products as new dispensaries enter the medical market and lowered prices due to increased market competition, further noting that in the newly regulated market, patients can also expect to benefit further from guidelines designed to make cannabis and cannabis products safer. This participant stated that patients they have encountered feel excited, but also apprehensive and uncertain about how the medical and adult use markets will affect one another and how new regulations will affect the medical cannabis market, specifically. This individual believed that these feelings would remain until State and local medical and adult use legislation and regulations are finalized, and that the longer that process takes, the more uncertainty the cannabis industry will experience.

One overarching concern across focus groups was that current State law<sup>5</sup> does not allow for compassionate care to continue in San Francisco in the way that patients have accessed it in the past, access it currently, and envision it for the future. Focus group members felt that if this issue is not addressed, the City runs the risk of eliminating compassionate care altogether. One meeting participant noted that, though the pending State medical and adult use cannabis regulatory systems should be streamlined wherever possible for efficiency purposes, this was an area where the adult use and medical cannabis markets should differ significantly. Underlying concerns stemming from these statements were as follows:

- *Cost for Patients.* Participants in each focus group highlighted the issue of cost for patients in the newly regulated medical cannabis market, especially for low-income and indigent patients, immobile patients, and those experiencing homelessness. To some participants, the cost of

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<sup>5</sup> These concerns would also apply to any provisions within the current proposed local ordinance that codify the relevant State law provisions.

medical cannabis is already at unaffordable levels for many, and patients and patient advocates in each focus group were concerned about the ability for them to access the market in the face of new State and local regulations, where the regulatory cost would likely be passed on to consumers. There was also concern about the added burden of State and (possible) local taxation structures. According to some, patients generally prefer regulated, lab-tested medical cannabis, but one serious consequence of exorbitant taxes would be a proliferation of the illicit market, where medical cannabis would likely be cheaper. State law does exempt medical cannabis patients with the aforementioned State-issued card from State sales tax,<sup>6</sup> but there was consensus across focus groups that this exemption does not go far enough to reduce cost barriers for patients.

- *Prohibition against Samples, Free and Discounted Cannabis:* State Law currently prohibits the giving away of cannabis and cannabis products as part of a business promotion or commercial activity.<sup>7</sup> This has been interpreted to disallow the giving of cannabis samples and cannabis/cannabis products at discounted or no cost to individual consumers and/or other businesses, which are current practices in San Francisco's medical cannabis market. Participants across the focus groups were strongly opposed to these State law provisions since, according to them, such practices are critical for maintaining a functional compassionate care program. For example, patients rely on samples to test products in hopes of finding one that alleviates symptoms, and it would be cost-prohibitive for patients to instead have to purchase each item at full price at the outset.

Further, State law also requires that all cannabis and cannabis products be tagged with a unique identifier, known as a "track and trace" system.<sup>8</sup> There was a concern that this could conflict with any local policy allowing for donations or samples, since those cannabis items would not be moving through the commercial system the way State law currently envisions. For example, some medical cannabis businesses currently receive anonymous cannabis and cannabis product donations that they then distribute to patients, and such a track and trace system would deter those donors from continuing a practice that, in their view, facilitates continued and affordable access for low-income patients.

- *Phased Elimination of the Collective/Cooperative Model:* In establishing a State-regulated medical cannabis market, State law also eventually phases out the current collective/cooperative medical cannabis model.<sup>9</sup> According to focus group participants, this would eliminate a critical community-sharing element of San Francisco's current compassionate care practices.

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<sup>6</sup> The Adult Use of Marijuana Act – Proposition 64, Section 34011.

<sup>7</sup> Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) Section 26153.

<sup>8</sup> The Adult Use of Marijuana Act – Proposition 64, Section 26170.

<sup>9</sup> Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) Section 11362.775

- *Product Type and Dosage Inflexibility.* Current State law limits edible cannabis product THC content to 10 milligrams per serving size in both the medical and adult use markets,<sup>10</sup> and previously proposed State regulations<sup>11</sup> limited the total THC amount per package to 100 milligrams. The proposed State regulations also placed a 1,000-milligram THC limit on non-edible cannabis products in both markets.<sup>12</sup> Focus group participants identified two main problems with this approach. First, there is often a need for patients to consume higher dosages than individuals in the adult use market because medical condition treatment plans and cannabis metabolism rates differ per individual, and, since State law does not currently allow for patients to obtain cannabis at little to no cost, this limitation would require patients to purchase multiple products to reach their required dosage levels, which is cost-prohibitive. Second, some participants noted that the pending State cannabis regulations would likely limit the types of edible cannabis products that can be produced, which they felt would provide primarily for preservative-heavy and sugar-laden products, lead to high caloric intake among patients if they must consume multiple servings, and create potential health issues as a result.
- *Cannabis License Fees.* Some focus group participants cited State and (possible) local cannabis permit fees<sup>13</sup> as a potential cost barrier for true compassionate care businesses that wish to continue providing cannabis and services to low-income patients in San Francisco.
- *Medical Cannabis for Patients Under 18.* State law currently prohibits the production of cannabis products that are considered appealing to children.<sup>14</sup> Focus group participants noted that some children who use medical cannabis would benefit from products that are designed to make consumption palatable for them.

*Lack of Dedicated Consumption Spaces for Patients.* All focus groups noted that, for medical cannabis patients, consuming their medicine is often a social experience that is important for the healing process, and that there were not enough existing spaces in San Francisco for this purpose.

*Driving Under the Influence Determinations.* There was concern in one focus group about the process the State and City will undertake in determining whether an individual is driving under the influence. A process that considers only whether THC is present in the system, and not whether driving is actually

<sup>10</sup> Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) Section 26130 (c).

<sup>11</sup> See California Department of Public Health Proposed Regulations Comment Summary and Response, available at [https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20\(Final%20on%20CDPH%20Letterhead\).pdf](https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20(Final%20on%20CDPH%20Letterhead).pdf).

<sup>12</sup> See California Department of Public Health Proposed Regulations Comment Summary and Response, available at [https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20\(Final%20on%20CDPH%20Letterhead\).pdf](https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20(Final%20on%20CDPH%20Letterhead).pdf).

<sup>13</sup> Local cannabis permit fees have not yet been determined, but focus group participants thought they would likely be a cost barrier once established, especially when considered alongside a State license fee.

<sup>14</sup> Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) Section 26130 (c).

impaired as a result, will negatively affect patients, especially those who require relatively high THC doses as part of their treatment plans.

*Safe Consumption Information for Patients.* Meeting participants noted that safe consumption information currently varied across dispensaries, which could lead to misinformation and unsafe patient consumption practices.

### C. State Medical Cannabis Identification Card – Focus Group Responses

3. What is the general feeling among patients about the State medical cannabis ID card? Do people generally know how to apply, where to get it and that there is a fee associated with obtaining it?

Responses to the above questions are noted below.

There was general consensus across focus groups that many patients in San Francisco are currently unaware of the State card program and/or how to obtain a card. Participants noted that some current businesses were not appropriately applying the State sales tax exemption for medical cannabis patients who possess the card, and that this would likely continue without widespread education about the program for business owners, their employees and medical cannabis patients. One participant suggested that the Health Department lead this educational effort and increase accessibility by also educating providers that do not commonly interact with medical cannabis patients and may be unfamiliar with program guidelines, and developing informational materials for display at dispensaries and doctors' offices.

With the onset of adult use commercial activity and consumption, there was a concern that medical cannabis patients may bypass the medical market and instead obtain cannabis in the adult use market due to public stigma surrounding medical cannabis use, as well as misconceptions about the type of information that is stored within the medical cannabis identification program database and how that may affect current/future employment opportunities and the ability to purchase a firearm.<sup>15</sup>

In contrast, one participant noted that it was difficult to predict the effect of the adult use market on the MMIC program, but suggested that increased taxation levels for medical cannabis and a possible lack of San Francisco-based adult use retailers in early January, 2018, may significantly increase State card utilization. Others felt that adult use legalization and consumption would have a positive effect on the medical market and card utilization, since more people would be comfortable with cannabis use in general.

<sup>15</sup> The Bureau of Alcohol, Tobacco, Firearms and Explosives issued a memorandum to all firearms licensees in 2011 clarifying that federal law prohibits unlawful users of controlled substances, as defined by the federal Controlled Substances Act, from receiving or possessing firearms or ammunition. See Bureau memorandum, available at <http://71.11.3.134/share/PDF/ATFOpenLetter092111.pdf>.

#### D. Ideas and Suggestions – Focus Group Responses

4. Do you have ideas and suggestions about how the City could address the concerns you've mentioned? For example, what would the elements of a compassionate care program be in San Francisco?

Responses to the above questions are noted below.

*City Advocacy at the State Level to Preserve Current Compassionate Care Programs.* Each focus group highlighted the need for the City to advocate at the State level to allow:

- businesses to provide cannabis samples and cannabis free of charge and/or at a discounted cost to medical cannabis patients
- anonymous donations to compassionate care locations
- businesses to produce high dosage products for medical cannabis patients

Focus group participants felt that such advocacy would allow compassionate care to continue in the City in its current form.

*Establish a Citywide Compassionate Care Program.* Within the context of the aforementioned State level advocacy, focus group participants thought the City could create a program with the following possible characteristics:

**Program Eligibility Criteria.** Using income as the overarching criterion, San Francisco residents with medical cannabis need who are enrolled in Medi-Cal (or would qualify if they applied), low-income seniors (i.e. individuals over 50), immobile patients, and veterans would qualify for the City program. To capture as many individuals as possible, the City could also consider enrollment in other existing programs serving low-income San Franciscans as proof of compassionate care program eligibility. To limit the risk of federal intervention and adverse consequences for patients who receive federal assistance, the City could use the current MMIC application process as a record retention model. Focus group participants also highlighted the importance of discretion and preserving the confidentiality of those accessing the program.

**Program Elements.** Focus groups put forth the following possibilities:

- Program participants would be able to purchase medical cannabis and any medical cannabis product at cost of production.
- Program participants would be able to access current compassionate care services at individual medical cannabis dispensaries, e.g. samples, cannabis and cannabis products at little to no cost.
- San Francisco could create event permits for compassionate care events across the City, where patients and businesses could provide samples, share cannabis and cannabis products, and provide free or discounted cannabis to program participants.

- San Francisco could allow current medical cannabis collective/cooperative businesses to continue their operations as they currently exist.
- Any reduced cost policies the City establishes for patients would also apply to adult use cannabis and cannabis products.
- Some participants specifically referenced a 2007 San Francisco Board of Supervisors resolution<sup>16</sup> that encouraged cannabis dispensaries to establish compassionate care programs, noting that it already includes many principles that the City could codify Citywide (e.g. prioritizing seniors and veterans).

Citywide Compassionate Care Card. Separate from the State-issued medical cannabis identification card, a county-based card could be issued to individuals who qualify for the program. Some focus group participants referenced a previous San Francisco county medical cannabis identification card program that was deactivated with the establishment of the State-issued card, suggesting that the City's card program could be reactivated for this purpose. Focus group members also felt the card should be issued at little to no cost to program participants.

Program Funding Mechanisms. Focus group participants suggested that a fund be established to support the City's Compassionate Care program in whatever form(s) it eventually takes. Due to the inability for many cannabis businesses to access banking services, it was advised that the City create the fund and that a stakeholder group that includes cannabis businesses oversee the fund's revenue allocation process. Some focus group participants suggested that the fund also be used to subsidize the licensing fees for compassionate care businesses and/or the operating costs of a compassionate care community center suggested elsewhere in this report. Focus groups suggested three main funding mechanisms:

- *Round-Up Mechanism.* At the point of sale in either the medical or adult use markets, consumers could choose to donate to the fund by "rounding up" the cost of their purchase. For example, if a consumer purchased a cannabis product at 47 dollars, the total price could be rounded up to 50 dollars, with the remaining three dollars donated to the program.
- *Business contributions.* Under this model, cannabis businesses would be required to set aside a portion of their profits to fund the program, or the City could instead make such contributions voluntary. Some participants preferred a voluntary option to a mandated contribution.
- *Business Program Start Up Funds.* Here, cannabis businesses would voluntarily contribute immediate funding for the program, with the City then assuming responsibility for continued funding after the initial contribution.

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<sup>16</sup> See San Francisco Board of Supervisors 2007 Resolution urging Medical Cannabis Dispensaries to Implement Compassionate Care Programs to Serve Low and No Income Patients, available at <http://sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions07/r0623-07.pdf>.

*City Advocacy at the State Level to Support Additional Compassionate Care Aspects.* In the course of discussion, focus group participants highlighted other areas where advocacy would be needed to further support compassionate care goals.

- *Exempt Medical Cannabis Cultivators from Taxation.* According to some, establishing a tax exemption for medical cannabis cultivators would incentivize them to donate to compassionate care programs and increase cannabis availability for patients.
- *Donate Seized Cannabis and Cannabis Products to Compassionate Care Programs.* When cannabis is seized as a result of law enforcement intervention, some focus group participants felt it should not be destroyed. Rather, it could be donated to the City's compassionate care program and subsequently redistributed to patients.
- *Create Cannabis Product Exemption for Children with Medical Cannabis Needs.* The City should allow cannabis products that may be appealing to children to be provided for those with medical need.
- *Expand the types of cannabis products to include healthier options.*
- *Discourage the narrowing of qualifying conditions.* The City should view individual interactions between patients and physicians as the primary mechanism for determining whether medical cannabis use is warranted.
- *Create employment protections for medical cannabis card holders and compassionate care program participants.*

*Establish a Municipal Growing Framework.* Some focus group participants felt the City should consider municipal cultivation as a way to provide cannabis at lower cost to patients. City voters passed Proposition S in 2002,<sup>17</sup> which urged the City to explore this option, and the aforementioned focus group participants would support further discussion and action on this issue.

*Create Additional Consumption Locations for Patients.* Each focus group highlighted a need for additional medical cannabis consumption (i.e. smoking, vaping and product ingestion/use) locations in the City, especially if federal law continues to prohibit consumption in public housing. Some participants advocated for separate medical use consumption spaces to preserve a treatment-based environment for patients, adding that such spaces should not require a minimum purchase level in order to access the consumption area. Others underscored the need for community centers where patients can both consume their medicine and engage in harm reduction programs and activities, suggesting that the City reserve spaces in the City where such community centers can thrive and subsidize operational costs for those centers.

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<sup>17</sup> See Proposition S language and ballot results at [https://sfpl.org/pdf/main/gic/elections/November5\\_2002.pdf](https://sfpl.org/pdf/main/gic/elections/November5_2002.pdf) and <https://sfpl.org/index.php?pg=2000027201&propid=1683>.

*Prioritize Delivery Services.* For many immobile patients, medical cannabis delivery services are critical and should be prioritized within the City's cannabis regulatory framework.

*Reinstate Historical Compassionate Care Locations.* According to some focus group participants, a number of compassionate care locations were closed in the past due to federal intervention or an inability to thrive within the City's Medical Cannabis Act (Article 33) framework. Those participants felt the City should assist these businesses in re-establishing themselves in San Francisco in order to strengthen the compassionate care network.

*Reduce Fee for State Medical Cannabis Identification Card.* To increase affordability, the City should lower the current cost of the State-issued medical cannabis identification card.

*Establish Patient Advisory Committee.* The City should establish an advisory committee, consisting primarily of a diverse set of medical cannabis patients, and possibly businesses, to oversee the process of establishing and maintaining a compassionate care program.

*Education for Patients and Recommending Physicians.* Safe consumption information should be distributed to patients, and this information should be standardized across dispensaries and compassionate care locations in the City. Physicians must also be properly educated about how to provide cannabis recommendations that allow dispensaries to provide the correct cannabis treatment options.

#### **A Successful Compassionate Care Framework in San Francisco – Focus Group Responses**

Focus groups also discussed the need to ensure that San Francisco's compassionate care framework is successful, and made the following suggestions for how success could be defined:

- *Patients with Real Medical Need are Able to Access Cannabis at Affordable Cost.* Here, focus group participants advised the City to establish a robust educational campaign for the compassionate care program that uses a variety of communication outlets, including television, radio, and newsprint, to promote the program and ensure that there is widespread and far-reaching patient participation. Participants also suggested that the City develop a survey that would provide useful feedback for the City as to medical cannabis accessibility. Finally, it was suggested that the City consider mechanisms to prevent abuse of the program and hence ensure that patients with actual need are able to easily participate.
- *Cannabis Businesses of Varying Size are Able to Participate in the Program.* In this regard, one participant encouraged the City to consider the impact of any compassionate care program requirements on businesses of varying size and avoid creating a system that rewards non-compliance or places an undue burden on smaller businesses that will find it more difficult to absorb the cost of new State and local medical cannabis business regulations. That individual went on to note that establishing a compassionate care program would likely be an iterative process, since there is uncertainty at the moment about how the adult use market will fare in

San Francisco, so transparency about the program and how businesses can comply will be critical, especially during the initial implementation period.

Some focus group participants felt that the aforementioned patient advisory committee could be tasked with providing ongoing guidance to the City in this area.

## **V. Findings & Recommendations**

Based on Focus Group comments and concerns raised in the sessions by participants, the report finds the following, and makes associated recommendations:

**Finding 1 – Continued Access to Medical Cannabis:** The City has a long history of providing medical cannabis to patients, and this access to should continue in 2018 and beyond.

Recommendation:

- A. The City should require all retailers to maintain medical use as a condition of their permit.
- B. The City should further prioritize permit processing for medical only applicants.

**Finding 2 – Cost Concerns:** There are concerns that patients, particularly low income and indigent patients, will not be able to afford medical cannabis.

Recommendation:

- A. Compassion programs should be targeted to low income and indigent populations, veterans, and patient populations who can identify need.
- B. The City should remain thoughtful about the tax burden on the medical cannabis supply chain and patient consumers when crafting a local tax structure.
- C. The City should allow samples in certain circumstances, to allow patient consumers to test products before having to purchase products at full or reduced cost.
- D. The City should advocate for dosage flexibility for medical products at the State level if higher dosage levels are not addressed in emergency regulations this November.

**Finding 3 – Clarity and Advocacy for State Allowance of Compassion Programs:** Stakeholders would like the City to advocate for Compassion Programs that reflect San Francisco's values.

Recommendation:

- A. The City should advocate to the State to allow counties to maintain compassion programs, and provide clear regulations related to compassion programs within the M-Type supply chain.

**Finding 4 – Preservation of Compassionate Care Model:** The compassionate care model has provided patients with access to medicinal cannabis, is an important harm reduction tool, and these programs should be maintained.

Recommendation:

- A. Similar to the mandate passed unanimously by the Board of Supervisors in File No. 071505 (2007),<sup>18</sup> the City should create a compassion program or allow for retailers to establish their own compassion program. Descriptions of these programs and how the program will meet track and trace requirements should be detailed in their application for an Article 16 permit.
- B. The City should consider the creation of nonprofit licenses for compassionate care programs in 2018. This could include contemplating a lower license fee.
- C. The City should allow for flexibility in implementing a Compassion Program. An example of this is the City could create a Compassion Fund administered by the City. In lieu of creating an onsite program, retailers could provide a percentage of monthly gross revenue to this fund to offset licensing fees for future nonprofit permit permits and costs of products.

**Finding 5 – Determine Eligibility:** There is a need to create eligibility criteria that is discrete and confidential to ensure patient privacy.

Recommendation:

- A. The City should leverage should leverage its existing programs, such as the Medical Marijuana Identification Card (MMIC) program, as a pathway to a) determine eligibility and 2) provide a method by which patients can prove their eligibility to retailers or potential nonprofits. This resource should be provided at little to no cost to the patient.

**Finding 6 – Consumption Space:** Consumption of medical cannabis can be a social experience, therefore, patients would like spaces to be provided that allow for social consumption.

Recommendation:

- A. The City should encourage the retention of existing Medicinal Cannabis Consumption Space.
- B. The City should disallow retailers from mandating a certain amount of product be purchased in order to access the onsite smoking/vaping/consumption lounge.

**Finding 7 – Safe Consumption Information:** Patient consumers would benefit from having access to consistent education related to safe consumption.

Recommendation:

- A. The Department of Public Health should create fact based information to be provided to all consumers including patients at the point of sale.

**Finding 8 – Advocacy for Patient Community:** The City would benefit from continued advice from patients, patient advocates, and businesses.

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<sup>18</sup> San Francisco Board of Supervisors, File No. 071505, 2007.  
<http://sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions07/r0623-07.pdf>.

Recommendation:

- A. The City should amend the Cannabis State Legalization Task Force membership to ensure a broad set of stakeholders representing patient advocacy are reflected in the makeup of the body, and can further inform and advise future task force recommendations, notably about the evolution of policy related to compassion programs. One of these members should have experience in running a non-profit compassion program.

**Finding 9 – Data & Accountability: The City needs to gather data and report out on it regularly to ensure we are iterating our policies and meeting our goals.**

Recommendation:

- A. The Office of Cannabis and the Health Department should continue to monitor the effects of cannabis legalization on medical cannabis use in San Francisco.
- B. Data collection should be consistent with patient privacy guidelines, and should be incorporated into the Office of Cannabis' overall data management strategy.
- C. The Office of Cannabis in collaboration with the Department of Public Health should provide a report and recommendations to further inform the City's path forward with medical cannabis by December 31, 2018.

November 2017

**Re: MCD on 2161-2165 Irving, It's Unnecessary and Undesirable!!!  
Case #: 2016-002424CUA**

**To: San Francisco Board of Supervisors**

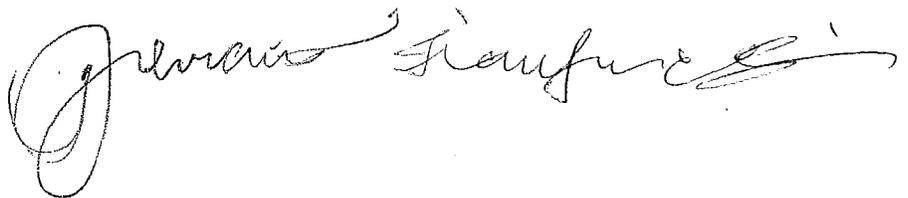
We understand that in accordance with the City of San Francisco Planning Code, marijuana dispensaries cannot be located within 1000 ft of schools and recreational facilities. Please note that there are three preschools, one music center, one sober house and one home school are located within 1000 feet of the proposed MCD.

- a. Jefferson Preschool & a Jefferson Elementary School is 1115 feet away from proposed MCD.
- b. Preschool #1: Jefferson Preschool; 1350 25th Ave, SF; 0.1 miles away from proposed MCD
- c. Preschool #2: Montessori Preschool, around the corner of proposed MCD
- d. Preschool #3: The Neighborhood School; 1214 20th Ave;
- e. Music City Academy Center: 1929 Irving St; 0.1 miles away from proposed MCD; 100 youth enrollment; majority age range from 5-18
- f. Home School: Within 1000 radius, address is confidential, but address can be provided when needed.
- g. Jefferson Elementary School: 1725 Irving St. 0.3 miles away from proposed MCD; 500 enrollment; around 200 elementary students walk pass by proposed MCD daily

We ask you to consider our opinions seriously in deciding on the future of our local community in the Sunset District. We respectfully request that you do not recommend the above mentioned marijuana dispensary. Your help is greatly appreciated.

Sincerely,

Sunset Merchants and Neighborhood Association

A handwritten signature in cursive script, appearing to read "Julianne Kaufman". The signature is written in black ink and is positioned below the typed name of the organization.

## Somera, Alisa (BOS)

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**From:** Cynthia Crews <cynthia.crews@gmail.com>  
**Sent:** Monday, November 06, 2017 11:51 AM  
**To:** Farrell, Mark (BOS); Tang, Katy (BOS); Peskin, Aaron (BOS); Safai, Ahsha (BOS); Fewer, Sandra (BOS); Yee, Norman (BOS)  
**Cc:** Karunaratne, Kanishka (BOS); Kelly, Margaux (BOS); Montejano, Jess (BOS); Angulo, Sunny (BOS); Hepner, Lee (BOS); Rubenstein, Beth (BOS); Summers, Ashley (BOS); Law, Ray (BOS); Mohan, Menaka (BOS); Lee, Judy (BOS); Meyer, Catherine (BOS); Sandoval, Suhagey (BOS); Boilard, Chelsea (BOS); Pagoulatos, Nick (BOS); Yu, Angelina (BOS); Maybaum, Erica (BOS); Low, Jen (BOS); Choy, Jarlene (BOS); Major, Erica (BOS); Somera, Alisa (BOS)  
**Subject:** RE: Cannabis Regulation Legislation [#171041 and #171042]

Dear Supervisors,

I am writing today to urge your caution in blindly barreling forward the proposed ordinances for cannabis regulation. There are many issues outstanding, and as introduced, ordinances #171041 and #171042 would create a flawed framework that is hasty at best.

The legislation proposed in Land Use and Transportation Committee and Rules Committee misses the opportunity that was key to 2016's Adult Use of Marijuana Act (AUMA). In an October 2016 article by The Root, Deborah Peterson Small notes that Californians had "a unique opportunity [with Proposition 64] to strike a significant blow against the war on drugs and begin the process of repairing communities harmed by decades of racially biased drug-law enforcement."

While taxation of recreational cannabis dispensaries could be seen as a great opportunity to generate revenue for the City, this is not the value of AUMA – the value is reparations. Opening the floodgates to adult use permits without an informed framework misses the opportunity to create equity in permitting. Why is the Mayor proposing legislation that's being fast-tracked through the Board of Supervisors without proper public input?

The equity components of ordinance #171042 fall short of the Director of Office of Cannabis' stated goals which include equity and restorative justice. The draft social justice task force recommendations by the City's Cannabis State Legalization Task Force are lacking in the areas of opportunity that were key to the success of AUMA in the November 2016 election. The public seats on the task force failed to include communities that are directly impacted by mass incarceration from the "war on drugs." Where has the task force had significant dialogue with impacted communities? Where has the task force created robust business opportunities and the framework for equity and inclusion in impacted communities – the framework that would be apparent if this legislation was comprehensive? This gap in inclusion, I believe, is apparent in the legislation to permit dispensaries before you this week.

You're not there yet, and moving forward without pause creates knee-jerk responses that seek to limit permits in commercial corridors and districts. These limits create clustering, shrink the green zone, clog the market with venture capital, and edge out communities that should be given the first opportunity to benefit from AUMA.

Equity doesn't look like pairing a general applicant with an equity applicant as proposed by the task force. That's equality. Equality gives everyone an equal level of opportunity. Equity refers to justness, which could mean that equity applicants are licensed first.

This legislation is premature, and I urge you to pause to allow time to engage communities in all areas of San Francisco. I urge you to hold off on restrictions that limit the green zone. I urge you to push back against the Mayor's rushed legislation.

Thank you for your time and consideration.

Sincerely,

Cynthia Crews Pollock

## Somera, Alisa (BOS)

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**From:** Chris Schroeder (Somatik) <chris@somatik.us>  
**Sent:** Monday, November 06, 2017 10:47 AM  
**To:** Peskin, Aaron (BOS); Safai, Ahsha (BOS); Ronen, Hillary; Kim, Jane (BOS); Sheehy, Jeff (BOS); Tang, Katy (BOS); Breed, London (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Yee, Norman (BOS)  
**Cc:** Somera, Alisa (BOS); Major, Erica (BOS); Mahajan, Menaka (ECN); Office of Cannabis (ADM); SBC (ECN)  
**Subject:** Public Comment regarding Cannabis Land use, rules and regulations

Hello Committee Members and Supervisors,

My Name is Christopher Schroeder and I run a small cannabis edible company in San Francisco called Somatik. As a member of SF Made which promotes local manufacturing and as a small business owner who's worked hard to become part of the San Francisco community I'm wiring to support my position on a few policy recommendations which are supported by the Small Business Commission to amend the Regulation of Cannabis Businesses BOS File No. 171042.

I want to emphasize:

**Separate the registration process into 2 steps.** Existing businesses which have not had the time or resources to find permitted space can do so. **And** allow these businesses to continue operations during the interim while they move towards compliance. Allow businesses a certain amount of time (12-18 months) to do so. Some of us would be unable to afford operating expenses without revenue and may go out of business; therefore, a pathway that would allow them to continue operating as they work toward compliance would be optimal.

**Allow shared spaces for manufacturers.** As rent in the city is prohibitive for most people it's even more prohibitive for small businesses. It is imperative for small manufacturers, especially those just starting out, to be able to share the expense with others. This mirrors traditional practices in San Francisco's non-cannabis food manufacturing.

I also want to emphasize:

**Allow facility tours.** The current proposal bans tours through 2019. As a member of SF Made I've been able to see the impact of showing people how something is made. As the industry is working to come out of the shadows, allowing manufacturers to show their process will demystify it, and create advocacy through education and exposure. One of the cornerstones of SF Made is touring local manufacturers to showcase the diverse industry and I think operators should legally be allowed to show people their space as part of our ongoing storytelling, brand building, and industry awareness.

**Local hiring requirements.** The current proposal requires the 50% of our workforce live in San Francisco. We currently have 5 employees and 3 of them live in Oakland. Consider expanding the local requirement to the 8 bay area counties, or reducing the requirement to 30%. Our industry should mirror other industries, and while I fully support hiring locally I also recognize that our Bay Area is a fluid community and mass transit systems like BART make it easy for employers and employees to seek out the best candidates and opportunities and still quickly and affordably get to work. Our employees were already working in San Francisco or are students here, and it would be detrimental to our business to have to let them go, or, hire more people before we could afford it to meet a specific % requirement.

**Cooperatives.** Allow for something similar to the state's new business entity type called the "agricultural cannabis cooperative". This entity type allows for cottage and small producers to join together under one umbrella entity and use that entity to apply for licensure, lease property, process, distribute, etc. This would help with the real estate and economic problem.

I thank you for your time and consideration.

-Chris Schroeder

Founder, Somatik Inc.

[www.somatik.us](http://www.somatik.us)

415-342-3565

## Somera, Alisa (BOS)

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**From:** Board of Supervisors, (BOS)  
**Sent:** Friday, November 03, 2017 11:50 AM  
**To:** Somera, Alisa (BOS)  
**Subject:** FW: require SF green environmental freindly certified growing for import to SF, critical for marijuauana permits

**From:** matt500\_98\_98@yahoo.com [mailto:matt500\_98\_98@yahoo.com]  
**Sent:** Thursday, November 02, 2017 7:32 PM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Subject:** require SF green environmental freindly certified growing for import to SF, critical for marijuauana permits

Honorable ladies & gentlemen,

Please think about adding responsible growing for cannabis imported to SF. As you know indoor or outdoor cultivation of marijuana is often associated with violation of local, state, and federal environmental laws and pesticide regulation, threatening to harm local waterways and groundwater quality and depletion and endanger the public health & safety. The rural foothill counties are having a difficult time with growers. Most counties are lucky to have one code enforcement officer for the vast areas under cultivation (many illegal). If SF could adopt a method of certifying growers, particularly outside SF grow warehouses, meet the best practices (meet local county grow regulations, abide by all laws (suspend permit for infractions) and eco sustainable practices.

Thank you

Somera, Alisa (BOS)

171041 & 171042

**From:** Jean Francois Houdre <houdre@sbcglobal.net>  
**Sent:** Thursday, November 02, 2017 11:30 AM  
**To:** Farrell, Mark (BOS); Peskin, Aaron (BOS); Tang, Katy (BOS)  
**Cc:** Major, Erica (BOS); Somera, Alisa (BOS)  
**Subject:** STOP THE POT CLUBS IN DISTRICT 11

Dear All,

PLEASE DO NOT repeal the Land Use Ordinance on banning the Pot Clubs in District 11. We are want the same quality of life that other communities have in SF. There are currently THREE POT CLUBS we do not want/NEED any more in District 11!

Thank you...DO NOT REPEAL PLEASE

Nancy Houdre  
139 Ney Street  
SF CA 94112



October 30, 2017

The Honorable London Breed  
President, Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

RE: Cannabis Regulations, Board of Supervisors File Numbers 171041 and 171042

Dear President Breed:

The San Francisco Chamber of Commerce, San Francisco Travel Association, the Council of District Merchants Associations and Golden Gate Restaurant Association are writing to urge the Board of Supervisors to consider a number of issues arising out of the current drafts of both the Planning Code and Police Code amendments regarding the regulation of adult-use cannabis.

While we recognize the huge effort that has gone into the draft legislation and, until very recently, a lack of timely and clear direction from the State of California, we believe the legislation as drafted is problematic for existing local cannabis businesses, unnecessarily delays reasonable access to cannabis for adult use and will not meet the expectations of the influx of visitors to the city seeking cannabis. As was stated in a recent letter to the Planning Commission by the California Music and Culture Association (CMAC); "San Francisco should have a clear plan to ensure that come January 1, 2018, consumers will have safe and regulated options for adult-use cannabis."

We urge the Board of Supervisors to recommend the following changes to the draft legislation:

- 1) Any transition provisions impacting current medical dispensary permits should be drafted to ensure that the issuance of temporary permits is a ministerial and not discretionary action by city government. To do otherwise, puts at risk the continued operation of lawfully operating businesses.
- 2) Zoning laws must recognize that much of the cannabis industry is comprised of small businesses, operating "below the radar" in locations that current ordinances or the draft legislation do not authorize for such uses. These "cottage businesses" may actually co-exist in some, if not all neighborhoods, and the Commission should urge the City to consider a "non-conforming use" process for these locations.
- 3) New permits under the yet to be drafted equity program, should include the right of existing small cannabis businesses to apply for such permits.
- 4) Rather than prohibiting existing medical cannabis dispensaries from selling adult-use cannabis in January of 2018, the draft legislation should specifically allow such businesses to receive a temporary business permit to sell cannabis products as anticipated under Proposition 64. These handful of local businesses should be encouraged to meet the demand for what will be a legal product next year.

- 5) Reasonable "Green Zones" where cannabis retailers can conduct business is critical if we are to reduce clustering of these businesses. Excluding locations within 600 feet from a school, as set forth in the draft ordinance, is reasonable and should not be increased.
- 6) While the buffering of cannabis retail uses to minimize impacts in neighborhood commercial districts is an appropriate legislative objective, using a 300-foot radius standard may not be the best solution. The "orbit option" set forth in the Planning Commission staff report and supported by that Commission is worthy of serious consideration by the Board of Supervisors.
- 7) The draft legislation makes consumption, especially by visitors, almost impossible. Again, as was pointed out in the CMAC letter, the city needs to loosen restrictions on consumption at licensed premises and create a consumption-only and special event permit. In addition, accessory use permits must be developed both for sale and consumption of cannabis. What we do not want is an ordinance that results, for lack of other options, in an increase in cannabis smoking on public sidewalks, parks and plazas. The City of Denver enacted a consumption pilot program ordinance that the Board of Supervisors should consider as a model for San Francisco.
- 8) The draft legislation restricts the delivery of cannabis to businesses that are only located within San Francisco. On our initial read, this restriction may violate the commerce clause of the U.S. Constitution. Additionally, if followed by other communities, it may prevent San Francisco-based businesses from delivering into adjacent cities and counties, which is a disservice to our local businesses. It appears that the solution is permitting and business licensing, not a ban.

The San Francisco business community looks forward to working with the Commission, the Board of Supervisors, city departments and the cannabis industry to insure we meet the expectations of our residents and visitors for the safe, lawful and timely implementation of state law for the adult use of cannabis and establishment of related businesses in San Francisco.

Sincerely,



Jim Lazarus  
San Francisco Chamber of Commerce



Cassandra Costello  
San Francisco Travel Association



Gwyneth Borden  
Golden Gate Restaurant Association



Henry Karnilowicz  
San Francisco Council of District Merchants Associations

cc. Clerk of the Board of Supervisors, to be distributed to all Supervisors; Mayor Lee, Nicole Elliott



October 18, 2017

Mr. Rich Hills  
President, San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

RE: Cannabis Regulations 2017-010365PCA

Dear President Hills:

The San Francisco Chamber of Commerce, representing over 2,500 local businesses from throughout the city, is writing to urge the Planning Commission to consider a number of issues arising out of the current drafts of both the Planning Code and Police Code amendments regarding the regulation of adult-use cannabis.

While we recognize the huge effort that has gone into the draft legislation and, until very recently, a lack of timely and clear direction from the State of California, the Chamber believes the legislation as drafted is problematic for existing local cannabis businesses, unnecessarily delays reasonable access to cannabis for adult use and will not meet the expectations of the influx of visitors to the city seeking cannabis. As was stated in a recent letter to the Commission by the California Music and Culture Association (CMAC); "San Francisco should have a clear plan to ensure that come January 1, 2018, consumers will have safe and regulated options for adult-use cannabis."

We urge the Planning Commission to recommend the following changes to the draft legislation:

- 1) Any transition provisions impacting current medical dispensary permits should be drafted to ensure that the issuance of temporary permits is a ministerial and not discretionary action by city government. To do otherwise, puts at risk the continued operation of lawfully operating businesses.
- 2) Zoning laws must recognize that much of the cannabis industry is comprised of small businesses, operating "below the radar" in locations that current ordinances or the draft legislation do not authorize for such uses. These "cottage businesses" may actually co-exist in some, if not all neighborhoods, and the Planning Commission should consider a "non-conforming use" process for these locations.

- 3) New permits under the yet to be drafted equity program, should include the right of existing small businesses to apply for such permits.
- 4) Rather than prohibiting existing medical cannabis dispensaries from selling adult-use cannabis in January of 2018, the draft legislation should specifically allow such businesses to receive a temporary business permit to sell cannabis products as anticipated under Proposition 64. These handful of local businesses should be encouraged to meet the demand for what will be a legal product next year.
- 5) While the buffering of cannabis retail uses to minimize impacts in neighborhood commercial districts is an appropriate legislative objective, using a 300 foot radius standard may not be the best solution. Your staff has recommended a number of alternative mechanisms. The "orbit option" set forth in the staff report is worthy of serious consideration by the Commission and Board of Supervisors.
- 6) The draft legislation makes consumption, especially by visitors, almost impossible. Again, as was pointed out the CMAC letter of October 16, the city needs to loosen restrictions on consumption at licensed premises and create a consumption-only and special event permit. In addition, accessory use permits must be developed both for sale and consumption of cannabis.
- 7) The draft legislation restricts the delivery of cannabis to businesses that are only located within San Francisco. On our initial read, this restriction may violate the commerce clause of the U.S. Constitution. Additionally, if followed by other communities, it may prevent San Francisco-based businesses from delivering into adjacent cities and counties, which is a disservice to our local businesses. It appears that the solution is permitting and business licensing, not a ban.

The San Francisco Chamber of Commerce looks forward to working with the Commission, the Board of Supervisors, city departments and the cannabis industry to insure we meet the expectations of our residents and visitors for the safe, lawful and timely implementation of state law for the adult use of cannabis and establishment of related businesses in San Francisco.

Sincerely,



Jim Lazarus  
Senior Vice President of Public Policy

cc. Each member of the Planning Commission, clerk of the Board of Supervisors, to be distributed to all Supervisors, Mayor Ed Lee, Nicole Elliott

October 26, 2017

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

RE: Proposed Local Cannabis Ordinance Introduced September 26, 2017 – File Nos. 171041, 171042

Dear President Breed and Supervisors,

As members of the San Francisco Cannabis State Legalization Task Force, we have worked diligently for the last two years to present recommendations to the Board of Supervisors.

During the most recent October 18, 2017, Task Force meeting, the Task Force spent a considerable amount of time reviewing the proposed cannabis ordinance introduced on September 26, 2017 – “Local Ordinance.” We revisited what Task Force recommendations were included, what recommendations were excluded, and what recommendations did not need to be addressed with legislation.

We feel that some of our Year I and Year II recommendations still need to be addressed.

The Task Force respectfully submits the below comments regarding the Local Ordinance:

**General**

- **Local Leadership.** In general, San Francisco should provide local leadership for the cannabis industry in instances where State law is unclear or only limited information exists.

**Consumption**

- **Expansion of Adult Use Hospitality Venues.** The Task Force recommends that the Local Ordinance incorporate a general statement of intent to expand opportunities for cannabis use in hospitality venues, such as dining establishments. Implementation strategies for these venues should be developed in collaboration with key stakeholders, such as culinary and hospitality organizations.
- **Consumption Areas.** The Task Force requests that the City continue to explore and consider a land use designation for consumption lounges and establish guidelines to prevent cross-contamination.
- **Smoking/Vaping Locations.** The City should address the issue of equal opportunity for businesses by designating consumption lounges for smoking/vaping consistent with the creation of lounges for the consumption of edibles already contemplated within the Local Ordinance. This can be achieved by allowing applications for consumption lounge permits for smoking/vaping. The Local Ordinance should designate the locations where smoking/vaping can occur.

- **Cannabis Consumption in Parked Cars.** The City should consider enforcement of State law with respect to public cannabis consumption in vehicles (i.e. imposing fines, fees, and arrests) as a low priority.

### Land Use

- **Cannabis Retail Distance of 500 feet from Sensitive Uses.** The Task Force proposes a distance of 500 feet to align with San Francisco's current distance for existing tobacco retail permittees.  
\* Note: The Task Force reached modified consensus on this issue. Discussion points and concerns related to proximity to sensitive uses were as follows:
  - A distance of 500 feet was proposed to align with San Francisco's current distance requirements for tobacco retail locations.<sup>1</sup> Some Task Force Members felt that 500 feet was too close of a distance to sensitive uses. Task Force Members also expressed concerns that distances less than the State standard of 600 feet would be contrary to public opinion and make cannabis retailers more susceptible to federal raids and business closures. One Task Force Member expressed concern that distances less than the current San Francisco requirement of 1,000 feet from schools are subject to mandatory minimum sentencing under Federal law, and prefers to keep the status quo of 1,000 feet rather than risk exposing retailers to additional liability of federal incarceration. Other Task Force Members supported a distance less than 500 feet, but agreed to move forward with the overall recommendation.
- **Sensitive Uses Proximity.** The Local Ordinance should include a statement that the City will consider exceptions (i.e. less than the currently proposed 600 feet) with respect to the distance new cannabis retailers can operate in proximity to sensitive uses in specific communities where appropriate, e.g. the Castro. \*Note: the above modified consensus points and concerns are also applicable to this recommendation.
- **Clustering.** The City should use the Conditional Use Authorization approval process in determining alternatives to the 300 foot clustering requirement outlined in the Local Ordinance. \*Note: The Task Force reached modified consensus on this issue, with one Task Force Member supporting a clearly defined clustering requirement rather than the use of Conditional Use Authorization in certain cases. One Task Force Member also felt that 300 feet was too close of a distance between cannabis retail locations.

### Permitting

- **Local Permitting - General.** The Task Force has recommended that the City consider a waiver of permitting requirements for cannabis smoking tents at special events, workforce permitting requirements that create uniform standards across businesses, a non-profit permitting framework, and delivery driver requirements. These issues are either unaddressed or partially

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<sup>1</sup> See San Francisco Health Code § 19H.4(f)(3).

addressed in the Local Ordinance. The Task Force therefore requests that the Local Ordinance reconsider these specific recommendations.

- **Nursery Permitting.** The Local Ordinance should define the nursery permitting structure and approve nursery permits rather than wait for the State to provide further clarity in this area.
- **Community Engagement as Part of Permitting and Land Use Approval Processes.** The Task Force supports the permitting and land use community engagement provisions as drafted.
- **Accessory Use.** The Local Ordinance does not contemplate accessory use permits at this time, and the Task Force supports an accelerated process for developing the accessory use permitting framework. \*Note: The Task Force reached modified consensus on the issue of expedited accessory use consideration, with general support of the accessory use concept. One Task Force Member did not want accessory use to be part of the immediate implementation plan for the City's cannabis legalization framework.
- **Agency Oversight.** The Task Force supports the City agency regulatory structure provisions as drafted.
- **Cannabis Event Permitting.** The Local Ordinance should include a process for cannabis event permitting.

#### Taxation

- **Tax Revenue Allocation Priorities and Data Collection.** The Task Force requests that the Office of Cannabis consider allocating potential tax revenue towards the City's local regulatory, policy, and programmatic goals, and prioritize the collection of appropriate data points to assess the impact of cannabis tax expenditures in achieving these goals. For reference, the Task Force's suggested allocation priorities include, but are not limited to: workforce development, entrepreneurial opportunity funds, education for students and youth, education and training for formerly incarcerated persons, and community-identified priorities.

#### Other

- **SFUSD Collaboration.** The Task Force recommendations specific to collaborating with the San Francisco Unified School District (SFUSD) were not legislated in the Local Ordinance. The Task Force therefore requests that the Local Ordinance contain a statement that references the intent to collaborate with SFUSD in the development of age-appropriate cannabis education in health education programs and builds upon the school district's existing educational model.
- **Public Safety.** The Task Force supports the public safety-related provisions of the ordinance as drafted.

Thank you for your consideration, and please feel free to contact us with any concerns, comments or questions. We look forward to working closely with you to ensure a safe environment for consumers, patients, and workers in San Francisco's regulated cannabis industry.

Sincerely,

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Note: NL = Not Legislated

#	Recommendation	Included	Rationale	
<b>Recommendation Category 1: Public Safety and Social Environment (PSSE)</b>				
<b>Recommendation Sub-Category: Public Safety</b>				
Driving Under the Influence (DUI)	1	Local policy guidelines for driving under the influence should be developed that are based on behavior testing until science-based testing exists.	NL	
	2	San Francisco should provide technical assistance to California Highway Patrol (CHP) as they develop DUI protocols and standards. As part of this technical assistance, San Francisco should explore the use of cannabidiol (CBD) as an antidote to manage overconsumption, with the current naloxone program as a potential model.	NL	
	3	San Francisco should develop and implement a city-wide DUI public awareness campaign.	NL	DPH is in the process of crafting a public awareness campaign that will include education around driving under the influence, per the Mayor's request via the November 9, 2016 Executive Directive.
Neighborhood Safety	4	San Francisco should develop cannabis business operating standards to form part of the business permitting process. These standards would ensure that cannabis businesses are "good neighbors" to the communities in which they are located.	Yes	Good Neighborhood Policies are contemplated in the legislation and applicants are required to agree to them as part of the application process. The proposed standards are the following: (i) Provide to residential and commercial neighbors located within 50 feet of the Cannabis Business the name, phone number, and email address of an onsite community relations staff person who may be contacted concerning any problems associated with operation of the establishment; (ii) Maintain the Premises, adjacent sidewalk and/or alley, and associated parking areas in good condition at all times; (iii) Prohibit loitering in or around the Premises, and post notifications on the Premises advising persons of this prohibition.
	5	Cannabis businesses should be like any other business in San Francisco in appearance and manner: well-lit, clean, appropriate hours of operation, guidelines for security, etc.	Yes	Operating standards contemplated will require cannabis businesses to ensure their space and the space surrounding their establishment is secure, remains free of litter, and is lit in a manner that supports public safety.
San Francisco Police Department (SFPD)	Three top considerations for the San Francisco Police Department (SFPD) when it is developing its criminal enforcement and training strategies are:	NL		

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Enforcement and Training Priorities	6	a) Strategies must represent community sensitivities and be developed together with parents or an agent of family representation;	NL	
		b) Strategies should be informed by subject matter experts in all areas of the cannabis industry, and not simply police officers training and/or educating other police officers;	NL	
		c) The SFPD should collaborate with Child Protective Services to establish guidelines for determining the safety of a juvenile in the custody of an impaired adult.	NL	

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	# Recommendation	Included	Rationale
<b>Recommendation Sub-Category: Public Consumption</b>			
Meaning of the Word "public"	<p style="text-align: center;">7</p> <p>San Francisco should allow and create policy pathways for smoking cannabis in public places that become privatized. These pathways should follow rules set by the San Francisco Department of Public Health for tobacco use.</p>	No	<p>The California Health and Safety Code states that the smoking of cannabis or cannabis products is prohibited in any location where the smoking of tobacco is prohibited. San Francisco has been a leader in ensuring that everyone has the right to clean air and is not exposed to second hand smoke. San Francisco's policymakers have passed local ordinances that include the prohibition of smoking of tobacco or any other weed or plant products in public areas such as parks, recreation areas and at certain outdoor events. As with the smoking of tobacco, passive exposure to marijuana smoke among children, nonsmokers, and people who work in cannabis businesses is a concern, and the City is committed to maintaining its progressive clean air laws. Therefore, this legislation does not propose allowing smoking/vaping in public places, except at medical cannabis dispensaries that received a prior smoking-area designation from the Planning Department.</p>
	<p style="text-align: center;">8</p> <p>The smoking of cannabis should be allowed anywhere that tobacco smoking is allowed. Indoor venues must provide proper ventilation that addresses odor and smoke if smoking is allowed indoors.</p>	Partial	<p>Under California and San Francisco law, the smoking of tobacco is not allowed in any place of employment, with a limited number of exceptions. Under the proposed legislation, a permitted medical cannabis dispensary with a prior smoking-area designation from the Planning Department will be allowed to maintain its smoking/vaping onsite location for medical use only. Beyond that, smoking/vaping is not proposed to be allowed at other commercial cannabis locations in the City. Note also that the proposed legislation requires such dispensaries to meet ventilation guidelines that will be developed by the Health Department.</p>
	<p style="text-align: center;">9</p> <p>The San Francisco City Attorney should provide further legal guidance regarding consumption in public-private spaces, i.e. where, when and how it could be done in the City.</p>	No	<p>Further clarification is not being sought by the City on this issue at this time.</p>

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On-site Consumption per Proposition 64	10	San Francisco should allow on-site consumption at cannabis retail locations.	Partial	Under the proposed legislation, the City will allow on-site consumption of edible cannabis products. The Department of Public Health will issue a separate permit to cannabis retailers that wish to allow onsite consumption of edible products, and rules and regulations to that effect will be forthcoming. Note that under the proposed legislation, the definition of consumption does not include smoking/vaping. A permitted medical cannabis dispensary with a prior smoking-area designation from the Planning Department will be allowed to maintain its smoking/vaping onsite location for medical use only. Beyond that, smoking/vaping is not proposed to be allowed at other commercial cannabis locations in the City.
	11	San Francisco's on-site consumption requirements should not be stricter than those outlined in Proposition 64.	Partial	Under the law, The Department of Public Health will develop rules and regulations governing the on-site consumption permit. These rules and regulations will incorporate whatever consumption allowances the State will provide for in its emergency regulations, to be released in November, 2017.
Overconsumption and Encouraging Safe and Responsible use Across the City	12	San Francisco and the Department of Public Health should collaborate with the cannabis industry and the community to develop a health promotion strategy for preventing overconsumption and youth access.	Yes	The Department of Public Health is actively developing a public awareness campaign focused on driving under the influence and youth access and exposure. DPH will aim to include a variety of perspectives in developing and implementing this campaign.
<b>Recommendation Sub-Category: Youth Access and Exposure</b>				
Education	13	The San Francisco Unified School District (SFUSD) should be involved in developing age-appropriate cannabis education for San Francisco schools' health education program.	NL	
	14	The SFUSD has an existing educational model focusing on wellness centers and health-based classroom education that should be used as the foundational framework for age-appropriate cannabis education. This framework should be analyzed (via data review) to identify gaps and revitalize the curriculum to effectively educate schoolchildren about cannabis use.	NL	
	15	Proposition 64 funding for student-focused cannabis education programs should also capture children outside of the SFUSD system.	NL	

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	16	Proposition 64 funding for student-focused cannabis education programs should be distributed in a collaborative way across a variety of organizations, especially those that are already engaged in these issues. To ensure this, San Francisco should develop funding criteria for making grants.	NL	
	17	The State should vest decisions regarding student education implementation and funding criteria solely in the counties.	NL	
Preventing Sales to Minors	18	San Francisco should conduct research regarding access for minors in the illicit market after the passage of Proposition 215 and in other states that have legalized cannabis for adult use in order to better understand how minors may access cannabis after adult use is legalized in California.	NL	The Health Department is conducting a health impact assessment that draws together evidence from multiple sources to better understand the potential health impacts from legalization in San Francisco, especially with regard to youth access and exposure. The Health Department will continue to collaborate with research experts to monitor the impact of cannabis legalization on minors
Advertising	19	The regulation of other industries, such as alcohol and tobacco industries, should serve as a model for monitoring the effect of advertising on minors.	Yes	State cannabis related advertising restrictions prohibit cannabis advertising within 1,000 feet of schools, playgrounds, youth centers, or day care centers. State law also prohibits advertising to occur in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products. The City will work with the state, regional and local partners to develop any necessary and appropriate policies regarding monitoring of advertising to minors.
	20	The San Francisco City Attorney should conduct research regarding the free speech limits to regulating cannabis advertising at the local level.	NL	
	21	San Francisco should conduct research to learn more about the strategies other adult use legalization states have used to regulate advertising to protect youth.	NL	
	22	San Francisco's advertising regulating bodies must do continuous forecasting to appropriately guard against "too much cannabis advertising" and be agile in adapting to rapidly emerging social trends that could increase exposure to youth.	NL	The City will work with the state, regional and local partners, including local agencies that provide access to advertising opportunities, to develop any necessary and appropriate policies regarding monitoring of advertising to minors.

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Criminal Diversion and Decriminalization Options for Youth	23	It is unlikely that, even with the most robust cannabis education programs for youth, there will be a zero percent usage rate among minors in San Francisco - they may continue to consume and/or sell in schools and other places. In light of that, San Francisco schools should take a reality and science-based disciplinary approach and rely on harm reduction principles to manage such situations. For example, for minors who commit cannabis-related offenses while at school, suspension and expulsion should not be the default tools used by schools to discipline students.	NL	
Youth Protection	24	San Francisco Unified School District should identify and collaborate with key stakeholders to explore alternatives to expulsion for youth facing disciplinary action for cannabis.	NL	
	25	San Francisco should develop policies to protect youth, e.g. develop clearly labeled packaging requirements to prevent accidental cannabis consumption by youth.	Yes	The legislation mirrors state requirements that all items sold must be in a child resistant container and placed in an opaque package when transported off a permitted premises.
<b>Recommendation Sub-Category: Tourism/Hospitality</b>				
San Francisco Cannabis Culture		San Francisco should collaborate with stakeholders to develop policies that achieve an appropriate balance between discretion and visibility of adult use cannabis culture. Along these lines, the City should create pathways that allow tourists to access adult use cannabis products and legal consumption spaces while preventing undesired exposure for those who prefer limited interaction with the		
	26	a) Allow cannabis consumption indoors to prevent unintended exposure	Yes	Under the proposed legislation, the Department of Public Health will issue separate permits to cannabis retailers that wish to allow onsite consumption of edible cannabis products, and rules and regulations to that effect will be forthcoming. Tourists would be able to access such spaces for consumption purposes. A permitted medical cannabis dispensary with a prior smoking-area designation from the Planning Department will be allowed to maintain its smoking/vaping onsite location for medical use only. Beyond that, smoking/vaping is not proposed to be allowed at other commercial cannabis locations in the City.
		b) Limit visibility of consumption in adult use retail storefront locations to prevent exposure from the street	Yes	The legislation allows for consumption of cannabis at retail locations that obtain an onsite consumption permit from DPH, and such consumption locations may not be visible from any public place or non-age restricted area.

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		c) Collaborate with tourism/hospitality stakeholders to provide tourists with educational materials and information about safe access and consumption of adult use cannabis.	Yes	The legislation requires distribution of a Responsible Consumption Fact Sheet at the point of sale, the content of which will be created by DPH. Moreover, the Office of Cannabis is working with SF Travel and the Chamber to develop information for tourism/hospitality to remain educated on the status of adult-use cannabis as well as responsible consumption, etc.
	27	the hospitality and tourism industry to develop pathways for lodging establishments to become "cannabis-friendly," thereby providing a legal consumption space for tourists without access to a private residence.	No	This legislation does not create a pathway for the Department of Public Health to permit consumption in any space other than cannabis retail.
	28	<p>There is a notable desire within the culinary community to incorporate adult use cannabis in dining options/opportunities, including the use of cannabis as a meal ingredient and the establishment of food/cannabis pairing options. San Francisco should collaborate with key stakeholders, such as culinary and hospitality organizations, to develop strategies for increasing these opportunities for restaurants and other food establishments. Strategies could include:</p> <p>a) Developing, proposing and pursuing a state legislative approach that would create an exemption for these types of culinary experiences.</p> <p>b) Development of a patron notification process for any food establishment offering these opportunities</p> <p>c) Development of mechanisms to determine the appropriate distribution of cannabis-friendly dining venues throughout the City.</p>	<p>NL</p> <p>NL</p> <p>NL</p>	<p>Noted, and will review with the Mayor's Office to inform the City's 2018 state legislative agenda.</p>
Tourist and Resident Experiences		San Francisco should collaborate with key stakeholders, such as the Department of Public Health and tourism/hospitality organizations, to develop educational materials for tourists and residents that:		

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29	a) promote safe cannabis consumption	Yes	The legislation requires distribution of a Fact Sheet related to safe consumption by retailers at the point of sale, the content of which will be created by DPH. DPH is also in the process of developing and implementing a public awareness campaign. The Office of Cannabis is also working with SF Travel and the Chamber to develop information for tourism/hospitality entities to remain educated on the status of adult-use cannabis as well as responsible consumption, etc.
	b) provide information on different product types and their physiological effects, and	Yes	The legislation requires distribution of a Fact Sheet related to safe consumption by retailers at the point of sale, the content of which will be created by DPH. DPH is also in the process of developing and implementing a public awareness campaign. The Office of Cannabis is also working with SF Travel and the Chamber to develop information for tourism/hospitality entities to remain educated on the status of adult-use cannabis as well as responsible consumption, etc.
	c) outline strategies to identify and manage overconsumption.	Yes	The legislation requires distribution of a Fact Sheet related to safe consumption by retailers at the point of sale, the content of which will be created by DPH. DPH is also in the process of developing and implementing a public awareness campaign. The Office of Cannabis is also working with SF Travel and the Chamber to develop information for tourism/hospitality entities to remain educated on the status of adult-use cannabis as well as responsible consumption, etc.
	The educational materials should be made available in various languages and formats (e.g. websites, brochures, signage, mobile applications, etc.), and distributed where adult use cannabis is allowed to be consumed and/or purchased, such as cannabis retail locations.	Yes	While DPH is providing the content for the required Responsible Consumption Fact Sheet, the City can translate this and can have it available in multiple languages for distribution at the point of sale and on the Office of Cannabis website. A general FAQ sheet will also be translated into all languages mandated through the Language Access Ordinance.
30	San Francisco, in collaboration with key City Agencies and stakeholders, should develop educational materials and trainings for cannabis retail licensees, their employees, and cannabis business license applicants on serving cannabis and cannabis products safely, responsibly, and legally. The Licensee Education on Alcohol and Drugs (LEAD) Program could serve as a model for this.	Yes	While LEAD is a good model to provide baseline education for employees regarding the laws and regulations they are required to be aware of and to follow, the City is not aware of existing education related to retail cannabis service. The Office of Cannabis would be happy to partner with city agencies and other stakeholders to identify models and to ultimately ensure appropriate training occurs so that employers and employees understand best practices related to responsible service of cannabis and cannabis products.

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#	Recommendation	Included	Rationale
<b>Recommendation Category 2: Land Use and Social Justice (LUSJ)</b>			
<b>Recommendation Sub-Category: Land Use</b>			
Non-Retail Uses	1	San Francisco should allow non-retail adult use cannabis uses (i.e. cultivation, manufacturing, distribution) and utilize the existing Planning Code framework to establish land use controls for those uses.	Yes The legislation contemplates non-retail permits for cultivation, manufacturing, testing and distribution and incorporates analogous land use controls for these activities.
	2	The existing Planning Code framework already addresses distance to sensitive uses for non-retail businesses. Consistent with current regulations for non-retail medical cannabis uses, non- retail adult use cannabis uses should therefore be exempt from distance requirements for sensitive uses (e.g. schools, youth centers, etc.).	Yes The legislation does not apply sensitive use controls to all self-contained/totally enclosed permit types: cultivation, manufacturing, testing, distribution and nonstorefront retail.
Retail Uses	3	San Francisco should develop meaningful qualitative findings for the Planning Commission and/or other commission(s) to use when reviewing adult use retail applications.	Yes Specifically, the following text is included: "With respect to any application for the establishment of a new Cannabis Retail Use, in addition to the criteria set forth in subsections (c) and (d) above, the Commission shall consider the geographic distribution of Cannabis Retail Uses throughout the City, the balance of other goods and services available within the general proximity of the proposed Cannabis Retail Use, any increase in youth access and exposure to cannabis at nearby facilities that primarily serve youth, and any proposed measures to counterbalance any such increase."
	4	San Francisco should reduce the distance new cannabis retailers can operate in proximity to sensitive uses to one that is less than the State- required 600 feet.	Partial The required minimum distance would be 600', which is 400' less than presently required for MCDs. The ordinance reduces proximity to some sensitive uses.
		San Francisco should also measure this distance with a "path of travel" approach rather than a straight line, parcel to parcel measurement.	No Straight-line measurement would continue to be used; other methodologies are far too ambiguous and would present uncertainty and controversy for cannabis retailers and neighbors alike.
		San Francisco should develop reasonable quantitative standards to regulate the location of, and permitting process for, adult use retail locations in San Francisco. These standards should include, but are not limited to:	

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5	a) Strategies to facilitate meetings between the applicant and neighboring community prior to the Planning Commission hearing and/or application process to address neighborhood concerns	Yes	The existing Pre-Application Requirements would apply to all MCDs in NC Districts
	b) Strategies to prevent clustering (as discussed below)	Yes	A 300' clustering requirement would be created
	c) Considerations for proximity to sensitive uses (as discussed below)	Yes	A clear 600' minimum requirement only from schools would be established
6	San Francisco should further define and/or refine definitions of "sensitive uses" and expand locations in which new cannabis retailers could operate, where appropriate.	Yes	As above, sensitive uses would be refined to only include schools and the present 1,000' minimum separation would be reduced to 600', thereby allowing a greater range of geography in which cannabis businesses could seek permission to operate.
7	San Francisco should consider varying approval processes (e.g. neighborhood notice only; notice plus mandatory Discretionary Review hearing; notice plus Conditional Use Authorization; etc.) for different zoning districts, with more rigorous review processes in Neighborhood Commercial Districts or other locations which present potential land use conflicts and less rigorous processes in other districts, such as Downtown or industrial districts.	Yes	NC Districts would generally require CU; Mixed-Use Districts would generally require neighborhood notice; Downtown Districts would generally be as-of-right.
8	San Francisco should develop policies to prevent clustering of adult use cannabis retailers. Strategies may include:		
	a) Use of "buffer zones" around other adult use retail locations. The distance of these buffer zones should balance both community concerns and business interests, with the aim of preventing too high a concentration of retail locations in a given district while also encouraging healthy competition.	Yes	A cannabis businesses could not locate within 300' of another such business.
	b) Stricter clustering provisions in Neighborhood Commercial Districts to balance neighborhood concerns, and less strict clustering requirements in other districts, such as Downtown or Industrial districts.	Partial	While the minimum clustering distance is the same throughout the City, CU criteria applicable in NC districts require that the Commission consider additional adjacencies and other factors such that a higher level of scrutiny would apply.

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	9	San Francisco should include adult use cannabis retail businesses in existing Formula Retail rules. Note: Formula retail rules state that if an establishment has eleven or more retail locations worldwide, it is subject to a more stringent review and authorization process.	Yes	In the proposed ordinance, Cannabis Retail and MCDs are subject to Formula Retail controls.
	10	San Francisco should allow retail locations in areas other than the ground floor, such as spaces located at basement level, second floor or higher.	Yes	In areas with floor-by-floor zoning controls, cannabis businesses would be allowed on the basement, ground, and 2nd levels. In other areas where allowed, cannabis businesses would be allowed on all levels.
	11	San Francisco should develop a mechanism to prioritize the re-permitting of medical cannabis business operators who were shut down by the federal government or lost their original permit due to sale of building and loss of lease.	Yes	The proposed legislation prioritizes applications from operators who were in good standing with the City but were forced to close due to federal intervention/enforcement.
	12	San Francisco should align regulations for adult use cannabis retail signage on store fronts with regulations for other retail businesses.	Yes	Specific cannabis retail signage provisions are not proposed in the Planning Code changes.
MCD and Adult Use Retail Zoning Approval Processes	13	Medical cannabis dispensaries have more stringent ADA requirements to increase access for patients, which may not be necessary for adult use retailers. Therefore, adult use cannabis retailers, as distinct from medical use cannabis retailers, should not be subject to the heightened ADA requirements that currently apply to MCDs.	Partial	Retailers would be required to retain medical as a use, therefore, their ADA requirements remain just as stringent as those of MCDs.
	14	San Francisco should craft a reasonable process for current medical cannabis dispensaries to transition into the adult use market. A "transition" would include a medical dispensary adding adult use products or a medical dispensary switching to an adult use business model. Such "grandfathered" medical cannabis businesses should be exempt from any new, more restrictive land use provisions that may be applicable to adult use retail businesses.	Yes	The proposed land use controls do provide a way for existing MCD to convert to CRs. The provision exempts existing MCDs from more restrictive clustering provisions, and exempts them from obtaining Conditional Use Authorization.
<b>Recommendation Sub-Category: Social Justice/Workforce Development</b>				

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Successful Workforce	15	San Francisco should collaborate with San Francisco City College, San Francisco Unified School District, and other workforce development organizations and key stakeholders, to develop new or build upon existing training and apprenticeship programs as workforce pathways for individuals to participate in all aspects of the cannabis industry (i.e. cultivation, laboratory testing, manufacturing, retail, etc.). These programs should increase opportunities for individuals to enter the cannabis industry, but also be part of a broader workforce strategy to increase job opportunities in	NL	San Francisco Workforce does this for other sectors and will lead initiatives to incorporate cannabis occupations into this approach. Once certification and licensing standards for employees are established, workforce will work to prepare people towards achieving industry-recognized credentials.
	16	San Francisco should ensure that those with a criminal justice history are not automatically barred from job opportunities within the cannabis industry, and that license holders are incentivized to hire people with a criminal justice history to the extent possible.	Yes	The legislation does not contemplate stricter eligibility requirements than the state, notably around conviction history review. The legislation directs the Office of Cannabis to make every effort to coordinate conviction history review with the state so both local and state eligibility is defined at the beginning of the permitting process. Also, by implementing First Source standards, businesses will have direct access to a pipeline of qualified but oftentimes disadvantaged candidates that include people whom have interacted with the criminal justice system.
	17	San Francisco should create incentives (rather than mandates) for cannabis businesses to hire local residents and individuals from communities affected by mass incarceration. The City should also create hiring preference policies for residents who have moved out of the City due to the high cost of living.	Yes	The legislation contemplates requiring participation in the First Source Hiring Program for all permanent permit holders, meaning businesses would post any new entry-level positions with San Francisco's workforce system before posting those positions publicly (i.e. their website, linked in, craigslist, monster, etc.). As a good faith effort (as opposed to a mandate) First Source ensures that participating businesses consider qualified San Francisco residents whom have sought out workforce services before they begin recruiting for candidates through more traditional hiring practices that may lead to under representation by low-income or disadvantaged San Franciscans. First source has proven to be a valuable tool for local businesses in gaining access to a screened pool of qualified candidates for entry-level positions.
	18	San Francisco should lower financial barriers to enter the cannabis industry by collaborating with workforce development organizations to provide high quality, free or low-cost cannabis workforce trainings, which should include both online and in-person modalities.	Yes	As mentioned earlier, San Francisco Workforce does do this for other sectors and will incorporate cannabis occupations into this approach.

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19	The cannabis industry is a dynamic field, and as such, San Francisco should collaborate with workforce development organizations to provide continuing education to maintain a well-trained, competent workforce and assure patient/consumer safety as new technologies and products emerge.	Yes	As mentioned earlier, San Francisco Workforce does do this for other sectors and will incorporate cannabis occupations into this approach.
20	San Francisco should create job opportunities and mechanisms to educate, train, and hire formerly incarcerated persons, transitional age youth (age 18-21), and young adults (age 21-26). The City's current process for hiring formerly incarcerated persons could serve as a model.	Partial	While persons under the age of 21 are not eligible to be employed by a commercial cannabis businesses, the San Francisco workforce system includes a Provider exclusively dedicated to formerly incarcerated participants and their unique hiring needs. In addition both our Adult and Young Adult programs see a disproportionate number of participants with criminal backgrounds. These tend to be the people that access workforce services because of the level of difficulty they face when trying to find employment. The workforce system is designed to offer education and training pathways for its participants to qualify for demand occupations. First Source is a proven model for increasing access to job opportunities by participants in the workforce system
21	San Francisco should work with key stakeholders to develop mechanisms to publicize job opportunities and draw diverse candidates to the cannabis workforce, such as job fairs, public education campaigns, or other pipelines.	NL	The workforce system hosts job fairs regularly and can easily incorporate cannabis employers and opportunities. OEWD's business services team can support communications strategies to increase awareness of the opportunities the industry creates.
22	San Francisco should ensure that existing workforce policies and protections for wage and benefit rights are extended to the cannabis industry workforce, such as connecting worker rights protections to the permitting process.	Yes	Operators will be required to comply with all local and state safety, wage and labor ordinances. Revisions to the legislation will contemplate including a detailed description of how the applicant will meet all state and local laws related to worker rights and protections.
23	Post-legalization, there will be a need for lab technicians with the capacity for testing cannabis products, and San Francisco should invest in this capability.	NL	This could likely align with the City's existing health care sector trainings. Once certification and licensing standards for employees are established, workforce will work to prepare people towards achieving industry-recognized credentials.

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Entrepreneurship Opportunities		<p>San Francisco should engage workforce development organizations, community-based organizations, community members, and other key stakeholders to develop strategies to reduce economic barriers for people of color, women, and formerly incarcerated persons to enter the cannabis industry as entrepreneurs. Strategies could include:</p>		<p>The legislation pending before the Board of Supervisors proposes that no applications for permanent commercial cannabis activity be made available until an Equity Program has been established. This program is intended to encourage a more equitable and inclusive local industry; and it will be developed and informed by an Equity Access Report due to the Board of Supervisors and the Mayor by November 1, 2017.</p> <p>The Office of Cannabis is working on the Equity Report with the Human Rights Commission and the Controller's Office. The report will present available data on disparities in the cannabis industry based on race, income, economic status, gender, disability, sexual orientation, gender identity, and HIV/AIDS status. It will also include recommendations regarding policy options that could (A) foster equitable access to participation in the industry, including promotion of ownership and stable employment opportunities in the industry (B) invest City tax revenues in economic infrastructure for communities that have historically been disenfranchised, (C) mitigate the adverse effects of drug enforcement policies that have disproportionately impacted those communities, and (D) prioritize individuals who have been previously arrested or convicted for marijuana-related offenses.</p>
	24	<p>a) Consider a prioritized permitting process to help operators reduce initial start-up costs (e.g. subsidized rent while undergoing permitting process)</p>	Partial	<p>The legislation does not currently contemplate reallocation of existing funding for the purpose of subsidizing rent. However, the legislation contemplates giving priority processing to Equity Applicants, a category to be defined by the City this fall. Additional policies to support equity operators will be further defined during the development of the proposed Equity Program.</p>
		<p>b) Creation of grants or other funding opportunities to assist people of color, women, and formerly incarcerated persons in achieving business ownership</p>	No	<p>This legislation does not currently contemplate the reallocation of existing funding to assist people of color, women, and formerly incarcerated persons from achieving ownership, however, this will be one area the City will seek to address through the creation of an Equity Program this fall.</p>
		<p>c) Equity licensing</p>	Yes	<p>This legislation contemplates only allowing eligible candidates access to applications for a permanent permit to operate once an Equity Program is established. At the time applications are opened, it is proposed that equity applicants receive priority review for permit processing.</p>

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	#	Recommendation	Included	Rationale
		d) Subsidized permitting and licensing fees	Partial	The Equity Program contemplated includes priority permit processing and technical assistance to applicants who meet Equity Criteria. Subsidized permitting and licensing fees will be contemplated during the development of the Equity Program and may be reviewed when the permit and license fee legislation is before the Board of Supervisors this fall.
		e) Use of existing small business support structures and programs as models, such as the Mission Economic Development Agency (MEDA), Minority-owned Business Enterprise (MBE), Women-owned Business Enterprise (WBE) programs, and others.	NL	The Office of Economic and Workforce Development will do a survey of all of small business support structures and programs, and this survey should be able to identify which programs cannabis businesses are eligible for today and where there may be any missing pieces. OEWD can then work with the City and State to identify potential funding sources for additional programming that may be needed.
	25	Due to federal cannabis prohibition, cannabis business owners cannot easily access banking services, and therefore, must operate on a largely cash-only basis. Thus, business ownership is limited to entrepreneurs with access to capital. San Francisco should therefore advocate for a change in federal prohibition policy and explore opportunities to use City funding and/or local credit unions to provide banking	NL	While the federal priorities for the Office of Cannabis will reflect advocacy around changes to federal prohibition to align with state and local law, this legislation does specifically speak to policies related to allowing for city funding for banking services.
Proposition 64 Community Reinvestment Grants	26	San Francisco should apply for Proposition 64 Community Reinvestment Grants and collaborate with key stakeholders to allocate funding to programs that benefit the communities targeted by the Proposition 64 grant funding. Program priority areas could include: <ul style="list-style-type: none"> <li>• the educational system</li> <li>• childcare subsidies</li> <li>• services for formerly incarcerated persons and other communities affected by cannabis prohibition</li> <li>• housing</li> <li>• job creation</li> <li>• behavioral health services</li> <li>• criminal record expungement</li> </ul>	NL	The City has engaged with the State on all funding opportunities and will continue to proactively advocate for funding formula and compete for allocations that benefit San Francisco programs and communities.

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	27	San Francisco should encourage cannabis businesses to invest in community benefit agreements that allocate resources to community.	Yes	The legislation proposes requiring a community benefits agreement from all commercial cannabis businesses, which at a minimum requires participation in the City's First Source Program. The legislation also proposes prioritizing permit processing based on the following: (1) Applications from Equity Applicants; (2) Applications that, if awarded a permit, would contribute to the continued access to Medicinal Cannabis for individuals who qualify to use Medicinal Cannabis under California Health & Safety Code Section 11362.5; (3) Applications from Applicants that were operating a Medical Cannabis Dispensary in compliance with the Compassionate Use Act prior to September 1, 2016; (4) Applications that demonstrate a commitment on the part of the Applicant to provide benefits to the surrounding community, including but not limited to workforce opportunities and community benefits contributions; and (5) Applications that, if awarded a permit, would provide for the continued employment of persons in the Cannabis industry.
Social Justice	28	San Francisco should include cultural competency trainings as part of the cannabis workforce development strategy.	NL	While the overall workforce strategy is not legislated through these ordinances, the City can review ways to provide appropriate trainings to employees. The Office of Cannabis seeks to better understand if there is/are a specific cultural need(s) that the Task Force seeks to address through this recommendation.
	29	San Francisco should develop pathways, such as an amnesty program, to encourage existing businesses to transition from the illicit to legal market.	Yes	The City is facilitating a registration process for existing medicinal cannabis businesses not currently permitted under Article 33 of the Health Code. This registration process allows San Francisco cannabis businesses to provide the City with information including: Business Registration Certificate, proof to occupy, location, verifiable date of operation, etc. IF businesses have this information and they are conforming to the Planning Code, the business will be subject to an inspection. If the business passes the inspection and provides the City with all necessary information, the business will be eligible for a temporary permit to operate their medical cannabis business. This temporary permit will authorize them to seek a temporary license from the state beginning Jan 1. 2018.

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30	San Francisco and the San Francisco Police Department should collaborate with community policing and diversion programs to educate businesses on the transition from the illicit to legal market.	NL	
31	The San Francisco District Attorney and Public Defenders Offices should work to streamline the record expungement and resentencing process for individuals with eligible previous convictions as outlined in the Proposition 64.	NL	

**Recommendation Category 3: Regulation and City Agency Framework (RCAF)**

**Recommendation Sub-Category: Licensing**

Licensing - Local Industry Licenses	1	San Francisco should develop a local adult use cannabis licensing system that aligns and builds upon the State license types and structure.	Partial	While the proposed legislation offers many types of permits, it does not allow for all activities allowed by the state such as nurseries and outdoor agriculture. All local applicants, except retail applicants, are not required to apply for an "M-Type" or and "A-Type" permit (although they will be required by the state)
	2	San Francisco should consider creation of new license types, in addition to the State-defined license types, to accommodate the diverse businesses within the adult use cannabis industry in the City. Any newly created local license types should be shared with the State and may include the following: <ul style="list-style-type: none"> <li>• New category: Manufacturing 6B Special baking/cooking license</li> <li>• New category: Consumption lounge</li> <li>• New category: Events (e.g. commercial events and farmers' markets, etc.)</li> </ul> The City should also explore the possibility for one-day event permits.	No	The legislation only contemplates permit types that align with existing state license types established by MAUCRSA at this time. Manufacturing is allowed, and consumption will be allowed at retail locations, under certain conditions. Special event permits are not contemplated in this legislation.
	3	San Francisco should support opportunities for existing businesses to participate in the cannabis industry by allowing for dual (i.e. the ability to sell both non-cannabis & cannabis products) licensing opportunities.	Yes	The legislation allows cultivators, manufacturers and distributors the opportunity to conduct medicinal and adult use related activities on their premises. The legislation requires retailers to either conduct only medical, or adult-use and medical activities on their premises. No solely adult-use retail activity is permitted under the proposed legislation.

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	4	In order to provide a consumption space, San Francisco should consider waiving licensing requirements for smoking tents at special events where there is no cannabis distribution.	No	Similar to DPH's approach to onsite consumption at retail locations, San Francisco has been a leader in ensuring that everyone has the right to clean air and is not exposed to second hand smoke. Because the City is committed to maintaining its progressive clean air laws, this legislation does not contemplate permitting smoking tents at special events.
	5	Proposition 64 includes a Type 7 = Manufacture 2 license for sites that manufacture cannabis products using volatile solvents. In planning for these uses, San Francisco should use the Planning Department's zoning map for volatile manufacturing and only issue Type 7 = Manufacturer 2 licenses in these permitted areas.	Yes	This legislation proposes zoning volatile solvent manufacturing only in locations where such activity would be allowed in an analogous use, such as in PDR-1-G, PBR-1-D, and PDR-2.
Licensing - Local Workforce Licensing	6	<p>San Francisco should consider workforce licensing requirements that create uniform standards across businesses. The City should work with relevant stakeholders to identify appropriate training requirements that achieve a balance between creating minimum standards that do not also create a barrier to entering the industry. The City should consider various job training formats (e.g. on-the-job training, apprenticeship certification, continuing education, shadow programs at dispensaries, etc.) and leverage existing programs to develop and implement adult use cannabis workforce education and training. The following entities could be involved in this effort:</p> <ul style="list-style-type: none"> <li>• Office of Small Business</li> <li>• City College of San Francisco and other community colleges</li> <li>• San Francisco Unified School District</li> <li>• Charter or private schools</li> <li>• Unions</li> <li>• Oaksterdam University</li> <li>• Patient Focused Certification Program – Americans for Safe Access</li> </ul>	NL	<p>Professional licenses are generally implemented at the state level, and because this is statewide activity, the City believes this should remain a state responsibility. With that said, the creation of standardized licensing requirements for workforce would allow individuals to train for clearly identified skills that meet the needs of the employer making them more successful at gaining employment. It is important that these standards be universal across geographies, ensuring that the worker has a broad market place for their skills and allowing them to find the best fit for themselves. The Office of Economic and Workforce Development and their workforce providers ensure that all trainings they provide give participants the skills they need for licensure (for example guard cards for security guards).</p> <p>The Office of Economic and Workforce Development as well as the Office of Cannabis can plan to participate in discussions for license establishment at the state level to ensure that such standards meet the needs of both our workforce and businesses. The City can then implement such standards within OEWD/partner trainings to ensure that the workforce participants are able to get the licenses needed to move into the workforce.</p>

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	#	Recommendation	Included	Rationale
Licensing - Non-Profit Licenses	7	San Francisco should encourage the non-profit model and make non-profit licenses available for cannabis organizations that provide compassion programs and supportive services.	Partial	While the City is not creating non-profit specific permits for 2018 (as defined by MAUCRSA) the City is contemplating an allowance for compassion programs, with certain restrictions, so that low income patients are able to continue to access medical cannabis at reduced cost. A report to that effect will be released by the Office of Cannabis in consultation with the Department of Public Health, and Controller's Office on November 1, 2017.
Deliveries	8	San Francisco should consider a local license that would allow for adult use mobile delivery/retail services without the brick and mortar retail requirement. Adult use cannabis retailers that possess a delivery-only license should have a hub, or centralized location, to process orders. In-home cannabis businesses could have impacts on residential neighborhoods, so these hubs should be in non-residential or live/work commercial zoning locations.	Yes	The legislation proposes permits for nonstorefront retail delivery. Zoning for this activity will mirror zoning requirements for distribution activity.
	9	Delivery drivers will need proof of authority to fill delivery orders. The driver should possess an order manifest that includes patient name, order date, delivery date, business name, items ordered, and order time. However, delivery address should not be included, as inclusion of this information may pose a safety risk to consumers.	Partial	Delivery drivers will be required to carry a manifest for each order. It is contemplated that the manifest will include: 1) Permit name and number, 2) Name of purchaser and date of birth, 3) date and time order was placed, 4) a description of the product ordered and amount, and 5) delivery address. These requirements have been contemplated in order to meet state regulations related to delivery. To-date, MAUCRSA requires delivery personnel to carry a physical copy of the delivery request requires the delivery personnel to make it available upon request of the licensing authority and law enforcement officers, however, the City expects that mandatory manifest information will be further clarified in the State's emergency regulations. To discourage "mobile delivery" the City is requiring each order have a specific destination prior to departure from the nonstorefront retail delivery location.
	10	San Francisco should allow permitted medical cannabis dispensaries that currently operate delivery services to continue to provide deliveries.	Yes	The legislation proposes requiring all retail permit holders to meet certain application requirements and operating standards to be eligible to deliver. If the retailer meets these requirements they may continue to deliver cannabis.
	11	Delivery drivers should receive appropriate training to minimize potential safety risks.	Yes	The legislation proposes requiring all retail permit holders to seek authorization to deliver, and as a part of their applications, retail/delivery will be required to sign a statement affirming that they will provide training to all employees concerning the laws governing sales and delivery, and to attend that the operator will take steps to ensure the personal safety of their employees.

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MCDs and Adult Use Market Participation	12	San Francisco should allow cannabis retailers to participate in both the medical cannabis and adult use cannabis markets.	Yes	The legislation proposes requiring all retailers to maintain their medical use while allowing them to add adult use to their location.
	13	The licensing process for medical cannabis dispensaries should not be more restrictive than that for adult use retail licensees.	Yes	As proposed, MCDs would be permitted as of right in all commercial zoning districts, but require a Mandatory DR or CU, depending on the district, in Neighborhood Commercial Districts.
	14	San Francisco should consider creating a licensing priority for current medical cannabis dispensary operators in operation as of, or prior to, September 1, 2016, to apply for adult use cannabis licenses. This aligns with Proposition 64's existing licensing priority provision.	Yes	The legislation states: In reviewing applications for Cannabis Business permits, the Director shall give priority to: (1) Applications from Equity Applicants; <b>(2) Applications from Applicants that were operating a Medical Cannabis Dispensary in compliance with the Compassionate Use Act prior to September 1, 2016;</b> (3) Applications that demonstrate a commitment on the part of the Applicant to provide benefits to the surrounding community, including but not limited to workforce opportunities and community benefits contributions; and (4) Applications submitted by all other Applicants.
<b>Recommendation Sub-Category: Taxation and Revenue</b>				
Taxation	15	Proposition 64 establishes State adult use cannabis taxes. To complement the State's taxation system, San Francisco should consider establishing local cannabis taxes to generate revenue that may be allocated to local cannabis legalization priorities not already funded through state taxes or other funding mechanisms.	NL	The Mayor issued Executive Directive 16-05 on November 9, 2016, that directed his Budget Director to consult with the Controller, Treasurer and Tax Collector, and other stakeholders to propose taxation and permitting fees related to the production and distribution of cannabis products. He also asked staff to consult with other American jurisdictions that allow for non-medical cannabis use to survey their taxation and fee methods, to incorporate lessons learned. This cannabis tax working group will make recommendations for a local ballot measure to tax commercial cannabis activity. These conversations have just begun.
	16	If San Francisco decides to implement local adult use cannabis taxes, the City should consider up to a 1% excise tax or gross receipt tax. The State will impose a 15% excise tax on adult use cannabis. Therefore, the local excise tax should not exceed 1%, to prevent consumers from purchasing from the illicit market due to taxes that are perceived to be too high.	NL	While a specific percentage has not been settled on, the City seeks to ensure a rate that does not shift businesses and consumers back to the illicit market

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	#	Recommendation	Included	Rationale
	17	Given that the cannabis industry currently operates primarily on a cash-only basis, San Francisco's Office of the Treasurer should create a mechanism to collect local adult use cannabis taxes.	NL	The Office of the Treasurer and Tax Collector is experienced in receiving and handling cash.
Revenue Allocation Priorities	18	San Francisco should consider allocating some potential State and local adult use cannabis tax revenue towards the City's local regulatory, policy, and programmatic goals with respect to cannabis legalization. Allocation priorities include, but are not limited to: <ul style="list-style-type: none"> <li>• Workforce development</li> <li>• Entrepreneurial opportunity fund</li> <li>• Education for students and youth</li> <li>• Education and training for formerly incarcerated persons</li> <li>• Community-identified priorities (e.g. community benefit agreements)</li> </ul>	NL	While not legislated, the Equity Report requested by the Board of Supervisors will contain some recommendations related to the possible investment of City tax revenues in economic infrastructure for communities that have historically been disenfranchised. The Office of Cannabis, Human Rights Commission and Controller will contemplate this recommendation when drafting the report and requisite recommendations.
Data Collection	19	San Francisco should use an evidence-based approach to inform future adult use cannabis policies and legislation. The City should engage key stakeholders to identify and collect appropriate data points to assess the impact of cannabis legalization.	NL	Data collection is not currently contemplated in this legislation, however, the Office of Cannabis is working to define methods of data collection and scope, and will incorporate this collection plan into their 2018 work plan. The Office will seek to use data to inform future policy recommendations for the Mayor and Board of Supervisors.
<b>Recommendation Sub-Category: Agency Oversight</b>				
Local Regulatory and Regulatory Oversight Structure	20	In developing an appropriate local regulatory and regulatory oversight structure for adult use cannabis, San Francisco should consider the following characteristics to ensure success for the entities responsible for regulation: <ul style="list-style-type: none"> <li>• Responsive</li> <li>• Timely</li> <li>• Accountable</li> <li>• Strong leadership</li> <li>• Transparent</li> <li>• Promote certainty in process</li> <li>• Multi-agency collaborative model</li> </ul>	Yes	The role of the Office of Cannabis is to implement the regulatory and permitting policies crafted by the Mayor and Board of Supervisors, and to track and analyze data to inform future policymaking related to cannabis activity. This legislation provides a transparent structure that allows for appeals of Director decisions to a third party hearing officer and then to the Board of Appeals for instances such permit issuance, suspension and revocation of permits.

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	#	Recommendation	Included	Rationale
	21	<p>San Francisco should consider new and/or existing regulatory and regulatory oversight structures for adult use cannabis regulation. Options would include the following:</p> <ul style="list-style-type: none"> <li>• Option 1: Standalone agency with its own staff and commission</li> <li>• Option 2: Standalone agency with its own staff, no commission</li> <li>• Option 3: Part of an existing agency or agencies</li> </ul> <p>Note: Task Force further developed this recommendation in Year II - please see "Other" tab for more information.</p>	NL	In the summer of 2017, the Board of Supervisors and the Mayor established an Office of Cannabis (OOC) under the direction of the City Administrator. This office is authorized to have three positions including the Director.
Local Agency Collaboration	22	<p>San Francisco should anticipate that numerous City agencies will have a role in adult use cannabis regulation. City agencies that may play a role in adult use cannabis regulation include, but are not limited to the: Department of Public Health, Police Department, Planning Department, Fire Department, Tax Collector's Office, Department of Building Inspection, San Francisco Municipal Transportation Authority, and Department of Public Works. The cannabis regulatory role of each agency should be distinct and not overlap.</p>	Yes	In the legislation, these departments are called "referring departments" and each department maintains existing permitting and inspecting responsibilities (except for the proposed sunset of DPH's final permitting role under Article 33)
Track and Trace	23	<p>Proposition 64 establishes a State-level track and trace monitoring system to track cannabis from seed to sale. This State system is sufficient for local cannabis tracking within San Francisco.</p>	Yes	Each operator will be required to comply with track and trace. The City has engaged the CDFA in their development of the system to request participation in the user outreach and development. The goal is to make this a useful tool for not just the state, but also appropriate agencies in San Francisco.

# **Year II Recommendations**

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#	Recommendation	Include	Rationale
<b>Year II Recommendations: Non-Retail Licensing</b>			
<b>Recommendation Sub-Category: Technical</b>			
Non-Retail Licensing Elements - General	1	San Francisco should make local permits for non-retail businesses available for all MCRSA and AUMA license categories and microbusinesses. San Francisco should not license large cultivation through State permit 3 or permit 5.	San Francisco is proposing to make indoor cultivation permits available for operations with up to 22,000 square feet of canopy. The legislation also proposes to allow for volatile and non-volatile manufacturing, distribution, microbusiness, and testing. The legislation does not propose a nursery permit due to the little information provided by the state related to this activity, however, it may contemplate this permit in the future, and after the state issues emergency regulations associated with this business activity.
	2	<p>In addition to the State-defined license types, the following local license types should be created:</p> <ul style="list-style-type: none"> <li>• New category: Virtual dispensary (i.e. physical location used for delivery with no walk-in retail)</li> <li>• New category: Manufacturing 6B Special baking/cooking license.</li> <li>• New category: Consumption lounge, bring your own product (entertainment, restaurants, yoga studio, gym)</li> <li>• New Category: Temporary Events, Cannabis Cup/Cultural Events, and Farmers Market examples</li> </ul> <p>The above licenses would not include retail activity, except in the case of microbusinesses.</p> <p>*Note: Manufacturing 6B, consumption lounge and events with retail activity to be addressed later under retail licensing topic area.</p>	<p>While the legislation contemplates nonstorefront retail delivery and manufacturing permits, it does not contemplate a stand-alone baking permit, nor does it contemplate permits for standalone consumption lounges and special events. Much of this has to do with concerns related to environmental health, as well as state restrictions on where cannabis may be consumed.</p>

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	Consumption lounges and temporary events should be allowed in San Francisco. The City should look into whether a license is necessary in these cases.	Partial	The proposed legislation does not allow for temporary events. It does allow for consumption spaces/lounges at permitted cannabis retail locations.
3	San Francisco should issue standalone permits for non-retail businesses; meaning no previous affiliation with medical cannabis dispensaries would be required as part of the licensing process.	Yes	We are not requiring proof of being affiliated with an existing MCD as an eligibility requirement for non-retail and delivery permit applicants.
4	The non-retail permitting process in San Francisco should be streamlined and efficient.	Yes	The Office of Cannabis is partnering with the California College of the Arts DBMA students as well as alumni to process mapping the existing application process with an eye towards streamlining and for the development of the final application system.
5	In the non-retail permitting process, existing permit holders in good standing or those who have been displaced as a result of federal intervention should receive priority processing and licensing status in the City and County of San Francisco. This recommendation should not conflict with Social Justice prioritized permitting processing recommendations.	Yes	The legislation contemplates giving retailers who were operating in good standing post 1996 and were forced to close due to federal intervention access to applications in phase I/2018.
6	San Francisco should respond to all State inquiries regarding local permits in a timely manner.	NL	While not legislated, the Office of Cannabis intends to work closely with our state counterparts on all processes related to local permit and state licensing approvals, including criminal history and over concentration review.
7	Security and Federal Government: Local Licensing agencies should do everything within their legal power to prevent disclosure of sensitive business and personal information to federal agencies. To reduce the risk of theft, local licensing agencies should keep non-retail facility physical addresses discreet, with mailing addresses as an appropriate way of providing information.	NL	The City intends to protect information related to operations of San Francisco based operators in good standing from federal enforcement to the extent allowed by law.

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	#	Recommendation	Include	Rationale
Non-Retail Licensing Elements - Licensing Requirements	8	Existing local and State laws and regulations cover many of the desired requirements for non-retail cannabis businesses. As such, the requirements for non-retail licensing should align with these local and State laws and regulations, including: <ul style="list-style-type: none"> <li>• Board of Equalization (BOE) Sellers permit requirements</li> <li>• Articles of Incorporation</li> <li>• Labor laws</li> <li>• Occupational Safety and Health Administration (OSHA) standards</li> </ul>	Yes	Local operating standards for all cannabis businesses, including non-retail, will require applicants to share with the City all information they share with the state for a state license. The Office of Cannabis will also use the operating standards defined by the state through emergency regulation as the City's baseline operating standards.
	9	Non-retail license applicants should be required to provide the following supporting documentation to the City of San Francisco, as part of the licensing process, depending on the nature of the activity: <ul style="list-style-type: none"> <li>• Hazardous materials and waste storage plan</li> <li>• State nursery program inspection</li> <li>• Building inspections from the Department of Building Inspection (DBI)</li> <li>• Fire Department documentation</li> <li>• Documentation of alignment with Agricultural Department best practices</li> <li>• Security plans</li> </ul>	Yes	All of these recommendations are encompassed in the proposed application requirements except the "State nursery inspection program" suggestion. The legislation does not propose a nursery permit.
	10	An annual inspection and a review of documents by a licensing agent should be required for non-retail license renewal. The inspection and document review should ensure compliance with State and local regulations and good standing with the Board of Equalization (BOE).	Yes	Operators will be required to have an annual inspection, and they will also be required to update all information on file in their application prior to renewing the permit to operate.
	11	San Francisco should issue local non-retail licenses to the operator, and take steps to ensure that licenses are portable.	Partial	Permits will be issued to the permittee. Permits for cannabis activity are tied to a permittee, location, and ownership structure (to an extent).

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	#	Recommendation	Include	Rationale
Dual Medical and Adult Cannabis Licensing	12	San Francisco should not make a distinction between medical and adult use permitting for non-retail businesses.	Yes	For all non-retail permits, we did not include a distinction for adult-use vs. medical use.
Personal Cultivation	13	Personal, noncommercial cultivation should not require a license in San Francisco.	Yes	These ordinances do not create personal cultivation permits.
<b>Recommendation Sub-Category: Social Justice</b>				
Strategies	14	San Francisco should engage community members in the target populations (people of color, women, transitional-age youth ages 21-24, and formerly incarcerated persons), workforce development organizations, community-based organizations, and other key stakeholders to develop strategies to reduce economic barriers to enter the cannabis industry as workforce or entrepreneurs.	Yes	<p>applications for permanent commercial cannabis activity be made available until an Equity Program has been established. This program is intended to encourage a more equitable and inclusive local industry; and it will be developed and informed by an Equity Access Report due to the Board of Supervisors and the Mayor by November 1, 2017.</p> <p>The Office of Cannabis is working on the Equity Report with the Human Rights Commission and the Controller's Office. The report will present available data on disparities in the cannabis industry based on race, income, economic status, gender, disability, sexual orientation, gender identity, and HIV/AIDS status. It will also include recommendations regarding policy options that could (A) foster equitable access to participation in the industry, including promotion of ownership and stable employment opportunities in the industry (B) invest City tax revenues in economic infrastructure for communities that have historically been disenfranchised, (C) mitigate the adverse effects of drug enforcement policies that have disproportionately impacted those communities, and (D) prioritize individuals who have been previously arrested or convicted for marijuana-related offenses.</p>

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#	Recommendation	Include	Rationale
15	<p>San Francisco should prioritize the following strategies for development:</p> <p>a) A prioritized permitting process to help operators in the target populations reduce initial start-up costs (e.g. subsidized rent while undergoing permitting process). Existing businesses should be prioritized first, followed by operators in the target population. If the cannabis regulatory agency places a cap on the number of licenses, this prioritization model should be revisited.</p> <p>b) An equity licensing program, which would include:</p> <ul style="list-style-type: none"> <li>• Entrepreneurship grants and other funding opportunities to assist people of color, women, and formerly incarcerated persons in achieving business ownership (funded by cannabis taxes)</li> <li>• Subsidized permitting and license fees</li> <li>• Access to small business support programs and incubator services, such as the Mission Economic Development Agency (MEDA), SCORE, Minority</li> </ul>	Partial	<p>a) The proposed legislation prioritizes Equity applicants and then existing businesses, notably those who have been in operation prior to September 1, 2016. This is to allow Equity applicants to keep pace with the evolution of the industry. Naturally, existing businesses are established and may have more capacity to evolve at a pace that Equity applicants may not, and that is one reason why Equity applicants were prioritized first. b) Funding opportunities, subsidized fees and access to additional services may all be contemplated in the creation of the program. The only component contemplated in this legislation, other than the priority review and processing, is technical assistance. Additional strategies may be contemplated during the development of the Equity Program.</p>

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	#	Recommendation	Include	Rationale
Stakeholders	16	San Francisco should provide a clear, transparent pathway and process for businesses to acquire non-retail licenses, and existing businesses should be allowed to operate for a period of one year	Yes	Temporary permits are being offered for non-retail and delivery. These are eligible for 90 day extensions through the end of 2018.
	17	San Francisco should ensure local regulatory agencies' non-cooperation with federal law enforcement authorities via a San Francisco local ordinance. Additionally, the Board of Supervisors should endorse AB 1578 or analogous state legislation for California State law enforcement non-cooperation with federal law enforcement authorities.	No	Non-cooperation is not specifically called out in this legislation, and the 2017 legislative session has concluded. During the session, AB 1578 was ordered inactive.
	18	The following entities could be involved in the aforementioned social justice-focused efforts: <ul style="list-style-type: none"> <li>• Neighborhood associations</li> <li>• Community business support programs (e.g., MEDA) and other local business associations</li> <li>• City College of San Francisco</li> <li>• Potential and current cannabis employees and entrepreneurs, including formerly incarcerated people, women, and people of color</li> <li>• Landlords</li> <li>• Office of Economic and Workforce Development (OEWD)</li> </ul>	NL	The City will continue to seek input and collaboration from a broad array of stakeholders as we develop our policies, including those related to social justice. While not specifically included in this legislation, this in no way precludes the City from engaging with these entities in the future.
<b>Recommendation Sub-Category: Community Engagement</b>				
Strategies	19	San Francisco should develop cannabis non-retail business operating standards to form part of the non-retail business permitting process. These standards should ensure that cannabis businesses are "good neighbors" to the communities in which they are located. These standards should be enforced meaningfully by regulatory agencies in a non-discretionary manner (e.g., standard set of rules and consequences, such as citations or notices of violation if rules are broken).	Yes	Good Neighborhood Policies are contemplated in the legislation and applicants are required to agree to them as part of the application process. The proposed standards are the following: (i) Provide to residential and commercial neighbors located within 50 feet of the Cannabis Business the name, phone number, and email address of an onsite community relations staff person who may be contacted concerning any problems associated with operation of the establishment; (ii) Maintain the Premises, adjacent sidewalk and/or alley, and associated parking areas in good condition at all times; (iii) Prohibit loitering in or around the Premises, and post notifications on the Premises advising persons of this prohibition. Notice of Violation + permit suspension and revocation (+ appeals pathways) are contemplated in the legislation to ensure accountability of permit conditions such as these.
	20	Cannabis non-retail businesses, when located within 300 feet of a Residential or Neighborhood Commercial Zoning District, must conduct a pre-application meeting as part of the licensing process and notify all residents within 300 feet. The licensing entity would oversee this process.	No	While this is not contemplated in the legislation, the Office of Cannabis is considering amendments to incorporate more community outreach as part of the application process.

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	#	Recommendation	Include	Rationale
	21	The regulatory agency or agencies overseeing the cannabis industry should make cannabis business regulations clear and accessible to the general public so that the public is informed and aware of the regulations.	Yes	The Office of Cannabis has a website and will seek to use it as a platform to disclose all appropriate regulatory information to the public to ensure full transparency and knowledge of the regulations governing the industry. The website currently houses the draft legislation and provides a platform for comment from members of the public, etc. and provides a place for members of the public to comment regarding how the website can be a better tool for their use.
	22	All employees of non-retail cannabis businesses should receive regulatory compliance training within six months of hiring similar to California Alcohol and Beverage Control LEAD training.	NL	As mentioned for this recommendation in Year I, we are not aware of a model for CA cannabis regulatory compliance training, similar to LEAD. With that said, the Office of Cannabis would be happy to partner with city agencies and other stakeholders to identify models and to ultimately ensure appropriate training occurs so that employers and employees understand best practices related to responsible service of cannabis and cannabis products.
	23	For the sake of public safety, non-retail businesses should not aim to draw unnecessary attention to themselves through signage.	Yes	Specific cannabis retail signage provisions are not proposed in the Planning Code changes.
Stakeholders	24	The following entities are stakeholders in the City's community engagement efforts for non-retail: <ul style="list-style-type: none"> <li>• Businesses</li> <li>• Residents</li> <li>• San Francisco Department of Public Health</li> <li>• San Francisco Police Department</li> <li>• San Francisco Fire Department</li> <li>• San Francisco Unified School District</li> <li>• Office of Economic and Workforce Development (OEWD)</li> <li>• Office of Small Business</li> <li>• Other San Francisco City agencies/departments and potential overarching cannabis regulatory agency</li> </ul>	NL	The City, through the Office of Cannabis, has been engaging many of these stakeholders to assist with the development of: registration inspection standards, components of the local regulatory structure, and policy options to address the future needs of San Francisco with the implementation of commercial cannabis activity in 2018.
Tourism and Hospitality	25	San Francisco should create a certification program for non-retail tour companies in alignment with existing tour bus regulations. Regulations and clear enforcement processes should be established for bus size, bus drivers, and smoking in vehicles, and to mitigate traffic congestion, safety concerns, noise, odors, and waste as a result of tours. Regulations should also set an upper limit on the number of visitors and tour frequency in order to maintain the non-retail nature of the facility.	Partial	The legislation contemplates allowing for tours of certain facilities in 2019, but only after policies are established that address policy priorities such as those outlined here: mitigating neighborhood impacts, address potential congestion and parking impacts, etc.

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	#	Recommendation	Include	Rationale
	26	Public safety education (e.g., regarding specific regulations) should be required for tour companies. Tour companies should be required to distribute cannabis education materials to patrons as part of the tour.	NL	See above.
	27	Tour companies should be required to designate a community liaison to address concerns and respond to community inquiries.	NL	See above.
Youth Access and Exposure	28	Non-retail cannabis-related waste material should be stored and disposed of securely in order to prevent diversion to youth.	Yes	The legislation requires a waste disposal plan from all operators, and requires trash to be contained and disposed of pursuant to garbage and recycling receptable guidelines to be developed by DPW. This will include locking receptacles.

**Year II Recommendations: Land Use**

**Recommendation Sub-Category: Cross-Cutting - Technical and Community Engagement**

Land Use Types	1	San Francisco should allow sales of cannabis products as an accessory use (i.e. where the selling of cannabis is not the location's primary use), develop regulations to specify how cannabis products should be separated from non-cannabis products and how accessory levels of cannabis product should be defined, and develop mechanisms to enforce these regulations. Options for regulating the sale of cannabis as an accessory use could include: a. Limiting the type of cannabis products sold to pre-packaged cannabis products only b. Restricting cannabis products to an area of a business where minors are prohibited c. Enclosing cannabis products in a locked box that an employee would unlock upon request	Partial	While the Planning Code legislation allows for accessory use, it defers that option to the creation of an Accessory Use permit from the Office of Cannabis. This permit type is not being offered at this time, however, once the City better understands state regulations associated to accessory use activity, we will begin to have more focused conversations related to accessory use - policies to regulate, inappropriate vs. appropriate accessory use locations, etc - in an effort to create a pathway for the thoughtful implementation and regulation of accessory use retail in the future.
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	# Recommendation	Include	Rationale
Land Use Landscape	<p>2 To create a desired mix of businesses and limit displacement of other land use types (e.g., other businesses and housing), San Francisco should:</p> <p>a. Expand locations where new cannabis businesses could operate to include all zoning districts where their conventional equivalents are allowed to operate.</p> <p>b. Establish a buffering distance between primary cannabis retail businesses.</p> <p>c. Allow cannabis business that are in compliance with requirements "as of right" in specifically zoned areas.</p> <p>d. Add cannabis retailers to the formula retail list.</p>	Yes	<p>a. We allow Cannabis Retail in all zoning districts that allow commercial activity, except for NC-1 zoning Districts. Only retail operations with a microbusiness licenses can operate in PDR districts.</p> <p>b. the ordinance established a 300' buffer around cannabis businesses.</p> <p>c. In most commercial districts cannabis retail will be allowed as-of-right, the notable exception being NC Districts. For non-retail, most of the cannabis activities are allowed as of right.</p> <p>d. In the proposed ordinance, Cannabis Retail and MCRs are subject to Formula Retail controls.</p>
	<p>3 Cannabis businesses should be subject to review by an appropriate agency to determine the conditions the business would need to comply with.</p>	Yes	<p>Businesses will be subject to review by multiple referring agencies to determine conditions of their permits. These agencies include DPH, SFFD, SFPD, and OOC.</p>
	<p>4 San Francisco should also measure this distance with a "path of travel" approach rather than a straight line, parcel to parcel measurement. "Path of travel" is defined as the shortest legal distance travelled on foot from the doorway of the business.</p>	No	<p>The legislation proposes to continue to use straight-line measurement; other methodologies are far too ambiguous and would present uncertainty and controversy for cannabis retailers and neighbors alike.</p>
	<p>5 San Francisco should reduce the distance new cannabis retailers can operate in proximity to sensitive uses to 500 feet. Existing MCDs in good standing would be grandfathered, and not be subject to new distance requirements when applying for adult use licenses.</p> <p>Note: The Task Force reached modified consensus on a distance of 500 feet from sensitive uses. Discussion points and concerns related to proximity to sensitive uses were as follows:</p> <ul style="list-style-type: none"> <li>• A distance of 500 feet was proposed to align with San Francisco's current distance requirements for tobacco.</li> <li>• Some Task Force members expressed concerns that distances less than the State standard of 600 feet would be contrary to public opinion, and cannabis retailers may be more susceptible to federal raids, business closures, and mandatory sentencing, i.e. harsher sentencing for sale of cannabis within school zones.</li> <li>• Some Task Force members supported a distance less than 500 feet, but agreed to move forward with the aforementioned</li> </ul>	Partial	<p>The required minimum distance would be 600', which is 400' less than presently required for MCDs. The ordinance reduces proximity to some sensitive uses. As proposed, existing operating MCDs' locations are grandfathered.</p>

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	# Recommendation	Include	Rationale
	6 San Francisco should protect cannabis retailers and other license holders in good standing from the impacts of future sensitive uses that may locate nearby. This means that if a new sensitive use opens within the defined radius of an existing cannabis business, the existing cannabis business should be allowed to continue operation.	Yes	Existing laws cover this already.
	7 Businesses that sell cannabis as an accessory use should undergo a different land use approval process as compared to non-accessory uses.	NL	This is not contemplated in the legislation at this time, however, it will be addressed legislatively at the time if/when accessory use permits are made available.
	8 Existing cannabis businesses should undergo a less restrictive land use approval process as compared to new businesses.		The proposed ordinance includes a provision that allows existing MCDs to convert to Cannabis Retail without CU authorization, or being subject to the new location restrictions. Existing non-retail businesses should not need to receive new land use entitlements as long as they already have them. Those non-retail businesses that operated without the benefit of a permit will have to establish the use at the site, which may require a change of use application or CU authorization.
<b>Recommendation Sub-Category: Technical</b>			
Land Use Types	9 San Francisco should establish a cannabis 'restaurant/food' license, with guidelines to prevent cross contamination. Examples of possible guidelines: a. Restaurant Infusions Onsite: Required Patron Notification of cannabis products, Chef-prepared onsite for retail sale b. Bakery Prepared onsite retail & wholesale sales c. Commercial Kitchen to permit infusions (e.g., baking with non-volatile substances) d. Accessory Use Permit: Existing small business seeking to add retail cannabis products, specific Land Use approval not required, assuming zoning is appropriate.	No	a) Not clear that this activity is currently allowed - the state current prohibits the manufacture of any product considered a potentially hazardous food. Edible cannabis is also not allowed to provide more than 10 milligrams of THC per serving and distribution must be uniform. Finally product must be labeled and packaged in final form before sale. b) & c) Same as above. If the final product needs time temperature controls to maintain it's quality and safety then it is not eligible for development and consumption. e) The City believes the state needs to provide more guidance re: accessory use, and then further conversations need to occur related to appropriate location and controls for this type of activity before permitting this activity.
	10 San Francisco should consider a land use designation for consumption lounge.	Partial	The legislation contemplates allowing for retailers to have consumption lounges on their premises with DPH approval. The existing 8 onsite consumption lounges for smoking/vaping would be eligible to remain if the retailer maintains their medical activity and does not add adult-use activity to their permit. Adult-use and medical consumption that is non-smoking/non-vaping could be allowed on the premises of permitted retail locations subject to certain conditions applied by DPH.

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	#	Recommendation	Include	Rationale
Land Use Landscape	11	In determining the proper distribution of cannabis businesses across the City, the main goal is ensuring even distribution and access throughout the city.	Yes	While this ordinance was drafted to allow a more even distribution of retail cannabis businesses across the City, San Francisco's industrial lands are clustered on the eastern side of the city; therefore most non-retail businesses is proposed to be located on the eastern side of the City.
Zoning Application Standards	12	San Francisco should allow existing permitted medical cannabis businesses and cannabis businesses that have been closed (as long as they closed in good standing) to have priority consideration in the adult use approval process.	Yes	The proposed legislation prioritizes applications from operators who were in good standing with the City but were forced to close due to federal intervention/enforcement.
<b>Recommendation Sub-Category: Community Engagement</b>				
Application Process	13	Community engagement must be a part of the application review process for cannabis businesses. Policies related to how community engagement is implemented are the charge of the oversight body.	NL	"NL" because this recommendation is unclear in the context of today. This ordinance does not contemplate any new public engagement requirements at this time, however, this may be addressed through future amendments of the ordinances.
	14	There should be a clear application and a clear process based on best practices for cannabis permits and/or licenses. This means that there should be a community engagement process as a minimum standard for both medical and adult use.	Partial	The Office of Cannabis seeks to create a clear and transparent application process. Planning pre-application requirements would apply to all MCDs in NC districts, and the Office of Cannabis is contemplating amendments that would increase community engagement prior to permit approval and issuance.
	15	The zoning application process for cannabis businesses should require documentation of community engagement activities and maximize opportunities for community engagement early on in the process that are as inclusive as possible.	No	The ordinance does not add any new public engagement requirements for cannabis businesses, however, community engagement requirements are being contemplated for inclusion in the ordinance through future amendments.
	16	Different thresholds and expectations should be established for the level of community engagement and review process required for different types of land uses, e.g., a stand-alone cannabis retail store may require more community engagement than a grow house without a public-facing component.	No	The ordinance does not add any new public engagement requirements for cannabis businesses, however, community engagement requirements are being contemplated for inclusion in the ordinance through future amendments.
	17	The application criteria and standards should be applied consistently across businesses and should include mechanisms to ensure accountability and include a high level of transparency.	Yes	The legislation contemplates application requirements and operating standards that will be required of every operator, and then additional standards based on activity type, to ensure thorough and thoughtful regulation of all activities. All criteria and standards will be made public. The legislation proposes inspections to ensure accountability.

Year II Recommendations: Retail Licensing

**Recommendation Sub-Category: Technical**

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	#	Recommendation	Include	Rationale
Retail Licensing Elements	1	San Francisco should make local permits for retail businesses available for all MCRSA and AUMA license categories and microbusinesses.	Partial	While the proposed legislation offers many types of permits, it does not allow for all activities allowed by the state such as nurseries and outdoor agriculture. All local applicants, except retail applicants, are not required to apply for an "M-Type" or an "A-Type" permit (although they will be required by the state)
	2	In addition to the State-defined license types, the following local license types should be created: <ul style="list-style-type: none"> <li>• New category: Manufacturing 6B Special baking/cooking license</li> <li>• New category: Virtual dispensary (i.e. physical location used for delivery with no walk-in retail)</li> <li>• New category: Consumption lounge, bring your own product (entertainment, restaurants, yoga studio, gym)</li> <li>• New Category: Temporary Events, Cannabis Cup/Cultural Events, and Farmers Market examples</li> </ul>	No	The legislation only contemplates permit types that align with existing state license types established by MAUCRSA. This legislation does not propose a stand-alone consumption permit, does not allow for temporary event permits, and does not contemplate a virtual dispensary at this time (public access to nonstorefront retail is not allowed under this proposal).
	3	The retail permitting process in San Francisco should be streamlined and efficient.	Yes	The Office of Cannabis is partnering with the California College of the Arts DBMA students as well as alumni to process mapping the existing application process with an eye towards streamlining and application platform development.
	4	In the retail permitting process, existing permit holders in good standing or those who have been displaced as a result of federal intervention should receive priority processing and licensing status in the City and County of San Francisco. This recommendation should not conflict with Social Justice prioritized permitting processing recommendations.	Yes	The proposed legislation prioritizes applications from operators who were in good standing with the City but were forced to close due to federal intervention/enforcement.
	5	San Francisco should respond to all State inquiries regarding local permits in a timely manner.	Yes	While not legislated, the Office of Cannabis intends to work closely with our state counterparts on all processes related to local permit and state licensing approvals, including criminal history and over concentration review.
	6	San Francisco should develop meaningful qualitative findings for the Planning Commission and/or other commission(s) to use when reviewing adult use retail applications.	Yes	Specifically, the following text is included: "With respect to any application for the establishment of a new Cannabis Retail Use, in addition to the criteria set forth in subsections (c) and (d) above, the Commission shall consider the geographic distribution of Cannabis Retail Uses throughout the City, the balance of other goods and services available within the general proximity of the proposed Cannabis Retail Use, any increase in youth access and exposure to cannabis at nearby facilities that primarily serve youth, and any proposed measures to counterbalance any such increase."

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#	Recommendation	Include	Rationale
7	<p>San Francisco should develop policies to prevent clustering of adult use cannabis retailers.            Strategies may include:</p> <ul style="list-style-type: none"> <li>• Use of "buffer zones" around other adult use retail locations. The distance of these buffer zones should balance both community concerns and business interests, with the aim of preventing too high a concentration of retail locations in a given district while also encouraging healthy competition.</li> <li>• Stricter clustering provisions in Neighborhood Commercial Districts to balance neighborhood concerns, and less strict clustering requirements in other districts, such as Downtown or Industrial districts.</li> </ul>	Yes	<p>The legislation proposes cannabis retailers may not locate within 300' of another such business. While the minimum clustering distance is the same throughout the City, CU criteria applicable in NC districts require that the Commission consider additional adjacencies and other factors such that a higher level of scrutiny would apply.</p>
8	<p>San Francisco should include adult use cannabis retail businesses in existing Formula Retail rules. Note: Formula retail rules state that if an establishment has eleven or more retail locations worldwide, it is subject to a more stringent review and authorization process.</p>		<p>Formula retail rules would apply to cannabis retailer and medical cannabis retail permits.</p>
9	<p>San Francisco should craft a reasonable process for current medical cannabis dispensaries to transition into the adult use market. A "transition" would include a medical dispensary adding adult use products or a medical dispensary switching to an adult use business model. Such "grandfathered" medical cannabis businesses should be exempt from any new, more restrictive land use provisions that may be applicable to adult use retail businesses.</p>	Yes	<p>The proposed land use controls do provide a way for existing MCD to convert to CRs. The provision exempts existing MCDs from more restrictive clustering provisions, and exempts them from obtaining Conditional Use Authorization.</p>
10	<p>San Francisco should allow cannabis retailers to participate in both the medical cannabis and adult use cannabis markets. The licensing process should include a review of the cannabis retailer's history (e.g. complaints and violations), possible proximity concerns, public review, traffic study, and a business plan that includes traffic/customer flow management.</p>		<p>The legislation proposes requiring retailers to maintain their medical use, but allows them to add adult-use to their activity. The licensing process, as proposed, would allow for a review of the retailer's history, business plan, community concerns, etc. as part of the permitting process.</p>
11	<p>San Francisco should not create a separate retail permit for nurseries.</p>	No	<p>The legislation does not currently contemplate nursery permits, however, that is something the City can allow for in the future. It wasn't incorporated at the time of drafting due to lack of clarification around proposed state regulations associated to nursery facilities.</p>

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	#	Recommendation	Include	Rationale
Retail Licensing Elements - Licensing Requirements	12	San Francisco should not make a distinction between medical and adult use permitting for retail businesses.	Yes	As contemplated, retailers would be required to have both types of activity on the premises, or they would be allowed to retain only their medical activity. This was done to ensure we always have a market for medical cannabis patients.
	13	Existing local and State laws and regulations cover many of the desired requirements for retail cannabis businesses. As such, the requirements for retail licensing should align with these local and State laws and regulations, including: <ul style="list-style-type: none"> <li>• Board of Equalization (BOE) Sellers permit requirements</li> <li>• Articles of Incorporation</li> <li>• Labor laws</li> <li>• Occupational Safety and Health Administration (OSHA) standards</li> </ul>	Yes	All state regulations will be incorporated into City regulation, and will form the baseline standard for all cannabis operations in San Francisco. Any additional regulations put forward by the City will reflect the City's values.
	14	Retail license applicants should be required to provide the following supporting documentation to the City of San Francisco, as part of the licensing process, depending on the nature of the of the activity: <ul style="list-style-type: none"> <li>• Hazardous materials and waste storage plan</li> <li>• State nursery program inspection</li> <li>• Building inspections from the Department of Building Inspection (DBI)</li> <li>• Fire Department documentation</li> <li>• Documentation of alignment with Agricultural Department best practices</li> <li>• Security plans</li> <li>• Weights &amp; Measures</li> </ul>	Yes	The legislation contemplates requiring applicants to submit the following plants and information with their applications: Waste St
	15	An annual inspection and a review of documents by a licensing agent should be required for retail license renewal. The inspection and document review should ensure compliance with State and local regulations and good standing with the Board of Equalization (BOE) or Office of the Treasurer and Tax Collector.		A permit holder will be required to maintain their standing with the state in order to maintain their local permit. In order for an permit holder to receive license renewal, the operator will be required to maintain compliance with all local and state permit conditions, and update their file regularly.
	16	San Francisco should issue local retail licenses to the operator for a particular location.	Yes	Permit are tied to locations and to ownership structure.

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	#	Recommendation	Include	Rationale
On-Site Consumption	17	San Francisco should allow and create pathways for smoking cannabis in public places that become privatized. These pathways should follow rules similar to alcohol consumption at special events for adults age 21+ and medical card holders age 18+.		The California Health and Safety Code states that the smoking of cannabis or cannabis products is prohibited in a location where smoking tobacco is prohibited. San Francisco has been a leader in ensuring that everyone has the right to clean air and is not exposed to second hand smoke. San Francisco's policymakers have passed local ordinances that include the prohibition of smoking of tobacco or any other weed or plant products in public areas such as parks, recreation areas and at certain outdoor events. As with the smoking of tobacco, passive exposure to marijuana smoke among children, nonsmokers, and people who work in cannabis businesses is a concern, and the City is committed to maintaining its progressive clean air laws. Therefore, this legislation does not propose allowing smoking/vaping in public places, except at medical cannabis dispensaries that received a prior smoking-area designation from the Planning Department.
	18	The San Francisco City Attorney should provide further legal guidance regarding consumption in public-private spaces, i.e., where, when and how it could be done in the City.	Partial	Further clarification is not being sought by the City at this time except for clarifying purposes.
	19	San Francisco should allow on-site consumption at cannabis retail locations and these locations must include proper ventilation systems.	Partial	Smoking/vaping consumption is proposed to remain at the existing medical cannabis dispensary onsite smoking locations for medical use only. Those locations must maintain their current ventilation systems and incorporate any additional standards DPH deems appropriate. Consumption that is non-smoking/non-vaping will be allowed at any retailer that receives a sub-permit from DPH for consumption related activities.
	20	On-site consumption should include nightclubs, bars, cafes; hotel roof-tops; outside spaces at buildings; music festivals/parks (e.g., Hippie Hill); private club/outdoor garden; adult-one spaces in public parks; temporarily privatizing public spaces through permitted activities.	No	Per MAUCRSA, consumption must be restricted to areas where people are 21 or older, it may not be visible from any public place or non-age restricted area, and tobacco and alcohol are not allowed on the premises. San Francisco has been a leader in ensuring that everyone has the right to clean air and is not exposed to second hand smoke. Because the City is committed to maintaining its progressive clean air laws, this legislation does not contemplate permitting consumption (including smoking and vaping) in public places, including at special events.
	21	San Francisco's on-site consumption requirements should not be stricter than those outlined in state cannabis laws.	No	Under the law, The Department of Public Health will develop rules and regulations governing the on-site consumption permit. These rules and regulations will incorporate whatever consumption allowances the State will provide for in its emergency regulations, to be released in November, 2017.

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	#	Recommendation	Include	Rationale
Non-Profit Licensing	22	San Francisco should encourage the non-profit model and make non-profit license available for cannabis organizations that provide compassion programs and supportive services.	Partial	The Office of Cannabis, in consultation with the Department of Public Health and the Controller, is in the process of developing a report and recommendations for providing continued access to medical cannabis at an affordable cost. The report will be released on November 1, 2017.
	23	San Francisco should provide incentives (e.g. tax and licensing incentives) to cannabis organizations that provide compassion programs and supportive services.	No	This is not currently contemplated in the legislation, however, this is something that can be reviewed after or upon the creation of a compassion program.
Tourism and Hospitality	24	<p>policies that achieve an appropriate balance between discretion and visibility of adult use cannabis culture. Along these lines, the City should create pathways that allow tourists to access adult use cannabis products and legal consumption spaces while preventing undesired exposure for those who prefer limited interaction with the cannabis industry. Strategies could include the following:</p> <ul style="list-style-type: none"> <li>• Allow cannabis consumption indoors to prevent unintended exposure</li> <li>• Limit visibility of consumption in adult use retail storefront locations to prevent exposure from the street while complying with existing Planning code requirements for active store front uses</li> <li>• Collaborate with tourism/hospitality stakeholders to provide tourists with educational materials and information about safe access and consumption of adult use Security plans</li> </ul>	Yes	Under the proposed legislation, the Department of Public Health will issue separate permits to cannabis retailers that wish to allow onsite consumption of edible cannabis products, and rules and regulations to that effect will be forthcoming. Tourists would be able to access such spaces for consumption purposes. A permitted medical cannabis dispensary with a prior smoking-area designation from the Planning Department will be allowed to maintain its smoking/vaping onsite location for medical use only. Beyond that, smoking/vaping is not proposed to be allowed at other commercial cannabis locations in the City. The legislation allows for consumption of cannabis at retail locations that obtain an onsite consumption permit from DPH, and such consumption locations may not be visible from any public place or non-age restricted area. The legislation requires distribution of a Responsible Consumption Fact Sheet at the point of sale, the content of which will be created by DPH. Moreover, the Office of Cannabis is working with SF Travel and the Chamber to develop information for tourism/hospitality to remain educated on the status of adult-use cannabis as well as responsible consumption, etc.
	25	San Francisco should allow cannabis retail locations in San Francisco to give tours of their facilities to the public.	Yes	The legislation contemplates allowing tours of certain facilities in 2019, but only after policies are established that address policy priorities such as those previously outlined by the Task Force: mitigating neighborhood impacts, addressing potential congestion and parking impacts, etc.

**Recommendation Sub-Category: Social Justice**

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	#	Recommendation	Include	Rationale
Strategies	26	San Francisco should engage community members in the target populations (people of color and formerly incarcerated persons; and within these groups prioritize women, transitional-age youth ages 21-24, and LGBTQ people) along with workforce development organizations, community-based organizations, and other key stakeholders to develop strategies to reduce economic barriers to enter the cannabis industry as workforce or entrepreneurs.		
	27	San Francisco should reduce annual permitting fees according to the percentage employment of target populations (25% off for 25% employment of target populations, 50% for 50% employment of target populations)	NL	This could be contemplated during the creation of an Equity Program.
	28	<p>San Francisco should prioritize the following strategies for development:</p> <p>a) A prioritized permitting process to help operators in the target populations reduce initial start-up costs (e.g. subsidized rent while undergoing permitting process). Existing businesses should be prioritized first, followed by operators in the target population, and previously licensed businesses closed by actions of the Department of Justice. If the cannabis regulatory agency places a cap on the number of licenses, this prioritization model should be revisited.</p> <p>b) An equity licensing program, which would include:</p> <ul style="list-style-type: none"> <li>• Entrepreneurship grants and other funding opportunities to assist people of color, women, and formerly incarcerated persons in achieving business ownership (funded by cannabis taxes)</li> <li>• Subsidized permitting and license fees</li> <li>• Access to small business support programs and incubator services, such as the Mission Economic Development Agency (MEDA), SCORE, Minority-owned</li> </ul>	NL	This could be contemplated during the creation of an Equity Program.
	29	San Francisco should provide a clear, transparent pathway and process for businesses to acquire retail licenses, and existing businesses should be allowed to operate for a period of one year while a permit application is in process, including issuing a city licensing compliance process guide, integrated into the SF business portal.	Yes	Temporary permits are being offered for non-retail and delivery. These are eligible for 90 day extensions through the end of 2018.

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	#	Recommendation	Include	Rationale
Stakeholders	30	San Francisco should ensure local regulatory agencies' non-cooperation with federal law enforcement authorities via a San Francisco local ordinance. Additionally, the Board of Supervisors should endorse AB 1578 or analogous state legislation for California State law enforcement non-cooperation with federal law enforcement authorities.	NL	This is not currently contemplated in this legislation. The city intends to
	31	The following entities could be involved in the aforementioned social justice-focused efforts: <ul style="list-style-type: none"> <li>• Neighborhood associations</li> <li>• Community business support programs (e.g., MEDA) and other local business associations</li> <li>• City College of San Francisco</li> <li>• Potential and current cannabis employees and entrepreneurs, including formerly incarcerated people, women, and people of color</li> <li>• Landlords</li> <li>• Office of Economic and Workforce Development (OEWD)</li> </ul>	NL	The City will continue to seek input and collaboration from a broad array of stakeholders as we develop our policies, including those related to social justice. While not specifically included in this legislation, this in no way precludes the City from engaging with these entities in the future.
<b>Recommendation Sub-Category: Community Engagement</b>				
Strategies	32	San Francisco should develop cannabis retail business operating standards to form part of the retail business permitting process. These standards should ensure that cannabis businesses are "good neighbors" to the communities in which they are located. These standards should be enforced meaningfully by regulatory agencies in a non-discretionary manner (e.g., standard set of rules and consequences, such as citations or notices of violation if rules are broken).*(Reflects Year 1 PSSE recommendation 4.)	Yes	Good Neighborhood Policies are contemplated in the legislation and applicants are required to agree to them as part of the application process. The proposed standards are the following: (i) Provide to residential and commercial neighbors located within 50 feet of the Cannabis Business the name, phone number, and email address of an onsite community relations staff person who may be contacted concerning any problems associated with operation of the establishment; (ii) Maintain the Premises, adjacent sidewalk and/or alley, and associated parking areas in good condition at all times; (iii) Prohibit loitering in or around the Premises, and post notifications on the Premises advising persons of this prohibition. Notice of Violation + permit suspension and revocation (+ appeals pathways) are contemplated in the legislation to ensure accountability of permit conditions such as these.
	33	The regulatory agency or agencies overseeing the cannabis industry should make cannabis business regulations clear and accessible to the general public so that the public is informed and aware of the regulations.	Yes	The Office of Cannabis has a website and will seek to use it as a platform to disclose all appropriate regulatory information to the public to ensure full transparency and knowledge of the regulations governing the industry. The website currently houses the draft legislation and provides a platform for comment from members of the public, etc. and provides a place for members of the public to comment regarding how the website can be a better tool for their use.

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	# Recommendation	Include	Rationale
	34 All employees of retail cannabis businesses should receive regulatory compliance training within six months of hiring similar to California Alcohol and Beverage Control LEAD training.	No	As mentioned for this recommendation in Year I, there is no known model for cannabis regulatory compliance training, similar to LEAD. With that said, the Office of Cannabis would be happy to partner with city agencies and other stakeholders to identify models and to ultimately ensure appropriate training occurs so that employers and employees understand best practices related to responsible service of cannabis and cannabis products.
	35 Community complaints and hearings for licensing and land use issues should be managed by the Office of Cannabis, and priority for hearings should be given to local residents.	Partial	The City's charter places the responsibility for land use decision on the Planning Commission; therefore the ordinance places land use decision for cannabis business with the Planning Commission. Licensing for individual cannabis businesses will be handled by the Office of Cannabis. The Office of Cannabis will track the process for applicants to be permitted/licenses, however the Planning Department will decide timing for hearings based on established practices. The Office of Cannabis will also manage complaints related to permit holder activity where appropriate.
Stakeholders	36 The following entities are stakeholders in the City's community engagement efforts for retail: <ul style="list-style-type: none"> <li>• Businesses</li> <li>• Residents</li> <li>• San Francisco Department of Public Health</li> <li>• San Francisco Police Department</li> <li>• San Francisco Fire Department</li> <li>• San Francisco Unified School District</li> <li>• Office of Economic and Workforce Development (OEWD)</li> <li>• Office of Small Business</li> <li>• Other San Francisco City agencies/departments and potential overarching cannabis regulatory agency</li> </ul>	NL	The City will continue to seek input and collaboration from a broad array of stakeholders as we develop our policies.

San Francisco Cannabis State Legalization Task Force  
 Year II Recommendations  
 Office of Cannabis Inventory Document - 10/16/2017

	#	Recommendation	Include	Rationale
Tourism and Hospitality	37	<p>There is a notable desire within the culinary community to incorporate adult use cannabis in dining options/opportunities, including the use of cannabis as a meal ingredient and the establishment of food/cannabis pairing options. San Francisco should collaborate with key stakeholders, such as culinary and hospitality organizations, to develop strategies for increasing these opportunities for restaurants and other food establishments.</p> <p>Strategies could include:</p> <ul style="list-style-type: none"> <li>• Developing, proposing and pursuing a state legislative approach that would create an exemption for these types of culinary experiences.</li> <li>• Development of a patron notification process for any food establishment offering these opportunities.</li> <li>• Development of mechanisms to determine the appropriate distribution of cannabis friendly dining venues throughout the City.</li> </ul>	NL	Noted, and will review with the Mayor's Office to inform the City's 2018 state legislative agenda.
	38	San Francisco should allow cannabis consumption in parked cars (i.e., do not impose arrests, fines, or fees for cannabis consumption in parked cars.)	NL	It is a violation of State law to consume cannabis in a public place, including a vehicle, to possess an open container or open package of cannabis/product in a vehicle, and to operate a vehicle while under the influence.
	39	San Francisco should create a certification program for retail tour businesses in alignment with existing regulations (e.g., for tour busses). Regulations and clear enforcement processes should be established for bus size, bus drivers, and smoking in vehicles, and to mitigate traffic congestion, safety concerns, noise, odors, and waste	NL	To contemplate in 2018.
	40	Public safety education (e.g., regarding specific regulations) should be required for tour companies. Tour companies should be required to distribute cannabis education materials to patrons as part of the	NL	To contemplate in 2018.
	41	Tour companies should be required to designate a community liaison to address concerns and respond to community inquiries.	NL	To contemplate in 2018.

San Francisco Cannabis State Legalization Task Force  
 Year II Recommendations  
 Office of Cannabis Inventory Document - 10/16/2017

	#	Recommendation	Include	Rationale
Youth Access and Exposure	42	San Francisco should collaborate with stakeholders to develop policies that achieve an appropriate balance between discretion and visibility of adult use cannabis culture. Along these lines, the City should create pathways that allow tourists to access adult use cannabis products and legal consumption spaces while preventing undesired exposure for those who prefer limited interaction with the cannabis industry. Strategies could include the following: <ul style="list-style-type: none"> <li>• Allow cannabis consumption indoors to prevent unintended exposure</li> <li>• Limit visibility of consumption in adult use retail storefront locations to prevent exposure from the street.</li> </ul>	Partial	Under the proposed legislation, the Department of Public Health will issue separate permits to cannabis retailers that wish to allow onsite consumption of edible cannabis products, and rules and regulations to that effect will be forthcoming. Tourists would be able to access such spaces for consumption purposes. A permitted medical cannabis dispensary with a prior smoking-area designation from the Planning Department will be allowed to maintain its smoking/vaping onsite location for medical use only. Consumption locations may not be visible from any public place or non-age restricted area.
	43	Retail tour access should be restricted to people ages 21 and over or in possession of a valid medical cannabis recommendation.	NL	This will be something contemplate during the creation of policies regulating tour activity. Under the proposed legislation, tours may be allowed at certain facilities as early as 2019.
	44	Retail cannabis-related waste material should be stored and disposed of securely in order to prevent diversion to youth.	Yes	The legislation requires a waste disposal plan from all operators, and requires trash to be contained and disposed of pursuant to garbage and recycling receptacle guidelines to be developed by DPW. This will include, at a minimum, a requirement that any waste be stored in locked receptacles prior to pickup.

San Francisco Cannabis State Legalization Task Force  
 Year II Recommendations - Other  
 Office of Cannabis Inventory Document - 10/16/2017

Recommendation	Included	Rationale
<b>Year II Recommendation - Agency Oversight</b>		
<p>In terms of a cannabis regulatory oversight structure, San Francisco should establish a standalone agency, with two options for managing the dispute resolution process: (1) a Commission or (2) hearing officer.            Note: this recommendation builds upon Year I Regulation and City Agency Oversight Recommendation #21.</p>	<p>Yes</p>	<p>The legislative contemplates the creation of a hearing officer, or ALJ. This officer will serve as the first step of appeals of Director's decisions related to permit suspension and/or revocation.</p>

## Somera, Alisa (BOS)

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**From:** Stefanie Schneider <schneideragain@gmail.com>  
**Sent:** Wednesday, November 01, 2017 7:31 PM  
**To:** Somera, Alisa (BOS)  
**Subject:** Opposition to removal of the existing MCD ban in District 11

Dear Ms. Somera,

I am single professional woman who owns and occupies a single-family residence in District 11. I am vehemently opposed to additional medical cannabis dispensaries (MCDs) being opened in this district. We already have three, and these existing dispensaries should be more than adequate to support the needs of the district. Their existence has already caused traffic issues (double parking), loitering, and brought more unsavory elements to this already struggling district. I don't want to see this district decline further. We are already fighting illegal gambling dens, gangs, and other illegal activities. Allowing this neighborhood to become a haven for MCDs will doom this neighborhood and its residents. While we need to recruit businesses to District 11 to round out the business district and remove the blight of boarded up store fronts, we definitely do not need more MCDs.

Please stand up for this neighborhood by supporting the existing ban. A vote to lift the ban would be a disservice to the entire district, especially homeowners, as values will be sure to plummet.

Sincerely,

Stefanie Schneider  
125 Curtis Street  
San Francisco, CA 94112

## Somera, Alisa (BOS)

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**From:** Ruby LaGrandeur <ruby@sumi112.com>  
**Sent:** Tuesday, October 24, 2017 8:41 AM  
**Subject:** Public comment re: Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042

Dear Small Business Commission, Office of Cannabis, and Board of Supervisors,

My name is Ruby LaGrandeur. I have been a resident of San Francisco for the past 5 years. Moving to California in 1999 has afforded me more opportunity than I could have ever imagined. I attended a small high school on Whidbey Island in Washington State where I was told by the school counselor I should either marry well or pray I get into a trade school. I am proud to be writing this letter to you with 15 successful years working in leadership positions in the biotech, clean tech and hi-tech industries. I manufacture a single serving, low dose, sparkling cranberry beverage which has been infused with 5 mg of THC. It allows both the novice and connoisseur to safely enjoy cannabis in any social setting. I desperately want to be compliant with all regulations. Unfortunately, I have been unable to obtain manufacturing space.

I agree with the Small Business commission's suggested 2 step registration process.

**Step 1:** ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 9/26. This mirrors Oakland's process, which does not require a location (that requirement is considered a barrier to entry).

**Step 2:** Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance.

Additionally,

It should be possible to share a space/address with other manufacturers or other cannabis businesses. It should mirror the food industry with many caterers or food producers sharing rental space in the same kitchen. The rental market in SF is, as you know, prohibitively expensive, and I am not even breaking even yet as it is. I don't believe we need to recreate the wheel when it comes to aspects of regulating the cannabis industry. Simple is better.

I truly appreciate the time, energy and dedication San Francisco officials have shown towards welcoming the cannabis industry. A thousand Thank you's. I am available for questions anytime.

Warmly,



**RUBY LAGRANDEUR**  
FOUNDER

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**T:** 415.515.9255  
**E:** ruby@sumi112.com  
**www.lagrandeur.co**

  *Stay connected!*

171041 | 171042

**From:** Jewel Zimmer <jewel@cocoacollectionsf.com>  
**Sent:** Saturday, October 21, 2017 3:56 PM  
**To:** Mahajan, Menaka (ECN); SBC (ECN); Office of Cannabis (ADM); Somera, Alisa (BOS); Major, Erica (BOS); Breed, London (BOS); Peskin, Aaron (BOS); Kim, Jane (BOS); Fewer, Sandra (BOS); Sheehy, Jeff (BOS); Yee, Norman (BOS); Tang, Katy (BOS); Ronen, Hillary; Safai, Ahsha (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS)  
**Subject:** Public comment regarding Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042

Dear Office of Cannabis, Small Business Commission, and Board of Supervisors,

My Name is Jewel Zimmer and I own a boutique chocolate company in here in SF. <http://cocoacollectionsf.com/artisan> In the past 18 months I have been working to transition my company into the cannabis world by doing diligent amounts research, having intellectual conversations with analytical labs, chemists, formulators, medical experts, Co2 extractors, farmers and potential delivery partners. As well as, establishing articles, Tax ID, sellers permit and investing extensive amounts of time and money into trying to make the most responsible legal and financial decisions possible to launch in this emerging market. I made the decision not to take on a lease before I understood exactly what would be asked of me as a manufacturer to comply with the city of San Francisco's new regulations. Now that I know what is expected of me, I am in a compromised position to register because I did not secure a zoned location before September 26 2017.

I am writing you today to formally acknowledge that I agree with the Small Business commission's suggested 2 step registration process.

**Step 1:** ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 9/26. This mirrors Oakland's process, which does not require a location (that requirement is considered a barrier to entry).

**Step 2:** Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance.

I ask that you take these suggestions seriously, as my future as a small cannabis business in San Francisco is dependent upon being able to register and work my way towards compliance with a zoned permitted location. I also ask that you consider shared kitchen spaces for manufacturers. This mirrors the current bay area food provenders and how we work collectively to help leverage one another.

Thank you for your time.

In partnership,

Jewel Zimmer

Jewel Zimmer  
San Francisco Ca 94102  
415-305-8421  
[www.cocoacollectionsf.com](http://www.cocoacollectionsf.com)  
[www.juna-world.com](http://www.juna-world.com) (coming soon)

171041 | 171042

**From:** Flour Child Collective <hello@flourchild.org>  
**Sent:** Saturday, October 21, 2017 4:32 PM  
**To:** Mahajan, Menaka (ECN); SBC (ECN); Office of Cannabis (ADM); Somera, Alisa (BOS); Major, Erica (BOS); Breed, London (BOS); Peskin, Aaron (BOS); Kim, Jane (BOS); Fewer, Sandra (BOS); Sheehy, Jeff (BOS); Yee, Norman (BOS); Tang, Katy (BOS); Ronen, Hillary; Safai, Ahsha (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS)  
**Subject:** Public comment regarding Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042" in the subject line

Dear Small Business Commission, Office of Cannabis, and Board of Supervisors,

My name is Stephany Gocobachi, I am a native of San Francisco and a member of the SF cannabis community, and I agree with the Small Business Commission's suggested 2 step registration process.

**Step 1:** *ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 9/26.* This mirrors Oakland's process, which does not require a location (that requirement is considered a barrier to entry).

Many producers are currently running cottage operations, out of their homes, as per Article 33. We have been waiting on the City's regulations to see what the next move is. For a small business, it isn't affordable to rent and build out a space until zoning is finalized, so many of us have been waiting to see what is going to happen before making a move. We started looking for space this year, and found one in the Dogpatch we loved that seemed like it would be a perfect fit- when we spoke with a lawyer about it, he basically told us that it would probably be ok but there was no guarantee- so we held off until there was more information. Alas, it would have been perfect, but we couldn't afford to build out a space and have it turn out to be in the wrong zone.

Many of those working from home kitchens are afraid to come forward and state they are doing business as such, for fear of their landlord being contacted for an inspection and losing housing, or being slapped with fines and fees. Many of us have been waiting on manufacturing regulations to know what to do next, and don't plan on continuing to work from home for long (and for some with growing businesses, can't). Please consider some sort of grace period for cottage manufacturers to get up to speed, and a reasonable pathway to get there.

**Step 2:** *Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance.* With the condition that we will find a properly zoned location by a certain date.

*Additionally, it should be possible to share a space/address with other manufacturers or other cannabis businesses, with each business holding their own permits but sharing use of a DPH-approved & permitted space.* It should mirror the food industry with many caterers or food producers sharing rental space in the same kitchen. Many small businesses don't need a large space, or can't afford one. Without this option- especially in the real estate market of San Francisco- there is no pathway for small businesses to grow. Small, artisan manufacturing would die. This is the backbone of the industry, and always has been. In terms of safety as well, it would be beneficial to have multiple business sharing in one location. The dispensaries and patients

of San Francisco currently rely on these small producers heavily- without us, there won't be any quality products on the shelves. As tiny businesses, it's extremely difficult to go from being compliant in the current climate to making such a fast jump into such a vastly different one. This way, we could band together and come up to compliance collectively, and give small businesses a chance in this new environment.

Thank you for your time, hard work and your consideration.

Best,  
Stephany Gocobachi  
Founder, Flour Child  
m. 415.251.3541  
[www.flourchild.org](http://www.flourchild.org)

171041 | 171042

**From:** Sharon Krinsky <sharon@societyjane.com>  
**Sent:** Saturday, October 21, 2017 5:21 PM  
**To:** Mahajan, Menaka (ECN); SBC (ECN); Office of Cannabis (ADM); Somera, Alisa (BOS); Major, Erica (BOS); Breed, London (BOS); Farrell, Mark (BOS); Kim, Jane (BOS); Fewer, Sandra (BOS); Tang, Katy (BOS); Ronen, Hillary; Yee, Norman (BOS); Safai, Ahsha (BOS); Cohen, Malia (BOS); Peskin, Aaron (BOS); Sheehy, Jeff (BOS)  
**Subject:** Public comment regarding Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042

Dear Small Business Commission, Office of Cannabis and Board of Supervisors,

My name is Sharon Krinsky and I am CEO and Founder of Hassell Girls, Inc. (DBA Society Jane), a Proposition 215 Medical Cannabis Collective and delivery service in San Francisco. We have been incorporated and conducting business since December of 2015 and are hoping to continue operating once the new regulations for cannabis businesses go into effect.

I am writing to lend my support and agreement to the Small Business Commission's suggested two-step registration process as outlined below:

**Step 1:** *ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 9/26. This mirrors Oakland's process, which does not require a location (that requirement is considered a barrier to entry).*

**Step 2:** *Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance.*

*Additionally,*

*It should be possible to share a space/address with other manufacturers or other cannabis businesses. It should mirror the food industry with many caterers or food producers sharing rental space in the same kitchen. The rental market in SF is, as you know, prohibitively expensive, and I am not even breaking even yet as it is.*

There has to be a way to help small businesses make it work. I will do whatever I can to help, but we can't succeed without you and your level-headed and common-sense guidance.

Not only is Society Jane my livelihood, it is also a lifeline for many patients seeking relief from debilitating pain and chronic health issues. If I am not able to register and obtain a license for Society Jane, the health and well-being of our members is at risk.

I will be attending Monday's meeting at 2:30 pm at City Hall in Room 400 to show my support for the Small Business Commission's suggested registration process. I hope you will join me in lending your support as well.

Sincerely,

Sharon Krinsky

Sharon Krinsky, Founder | CEO  
**SOCIETY JANE**™  
[www.societyjane.com](http://www.societyjane.com)

171041 / 171042

**From:** bridget may <bridget@littlegreenbee.net>  
**Sent:** Saturday, October 21, 2017 10:57 PM  
**To:** Mahajan, Menaka (ECN); SBC (ECN); Office of Cannabis (ADM); Somera, Alisa (BOS); Major, Erica (BOS); Breed, London (BOS); Peskin, Aaron (BOS); Kim, Jane (BOS); Fewer, Sandra (BOS); Sheehy, Jeff (BOS); Yee, Norman (BOS); Tang, Katy (BOS); Ronen, Hillary; Safai, Ahsha (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS)  
**Subject:** Public comment regarding Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042" in the subject line

Dear Office of Cannabis, Small Business Commission, and Board of Supervisors,

My Name is Bridget May and I run a small cannabis topicals company in San Francisco called Little Green Bee. I make massage oil for localized pain and skin ailments as well as cosmetics such as eye cream and serum. Here is my website:

<http://www.littlegreenbee.net/>

I have been incorporated since 2015 and am part of the supply chain to several delivery-only dispensaries including Sava and FoggyDaze:

<https://www.getsava.com/>    <https://foggydazedelivery.com/>

My background is in botany and chemistry, and I continue to work in the biotech industry as an analytical chemist to help pay my rent in San Francisco. I planned to devote myself full time to my business as soon as I was certain that I would be allowed to continue under the new regulations. I have all the requirements for doing business in the City and County of San Francisco (and California), such as business registration, seller's permit, and corporate meetings and bylaws. I have established an EIN with the IRS and I have been paying taxes since I began. However, I am currently working out of my home under cottage laws which I now know will not be legal come January of 2018. With the new regulations I find myself in a compromised position to register for a local permit because I did not secure a zoned location before September 26 2017.

I am writing to lend my support for the creation of a two-step registration process as outlined below so that I, like many others in my position, will have a path forward and the ability to remain in business under the new regulations.

Step 1: ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 26SEP2017. This mirrors Oakland's process, which does not require a location (this requirement is considered a barrier to entry).

Step 2: Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance.

Also, make it possible to share a space or address with other manufacturers or other cannabis businesses. It should mirror the food industry with many caterers or food producers sharing rental space in the same kitchen, creating a collective/co-op shared kitchen and community space, in which each producer or business is individually permitted but shares a commissary space or central hub. The rental market in SF is, as you know, *prohibitively* expensive, and I am not even breaking even yet as it is. There has to be a way to help small businesses make it work!

I ask that you take these suggestions seriously, as my future as a small cannabis business in San Francisco is dependent upon being able to register and work my way towards compliance with a zoned permitted location.

Thank you for your thoughtful consideration,

Bridget  
Little Green Bee  
(415) 652-1335

171041 / 171042

**From:** David Rothenberg <dave@mightyfoods.co>  
**Sent:** Sunday, October 22, 2017 12:29 PM  
**To:** Mahajan, Menaka (ECN); SBC (ECN); Somera, Alisa (BOS); Major, Erica (BOS); Breed, London (BOS); Peskin, Aaron (BOS); Kim, Jane (BOS); Fewer, Sandra (BOS); Sheehy, Jeff (BOS); Yee, Norman (BOS); Tang, Katy (BOS); Ronen, Hillary; Safai, Ahsha (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS)  
**Subject:** Public comment regarding Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042

Dear Small Business Commission, Office of Cannabis, and Board of Supervisors,

My name is David Rothenberg. I'm Founder and CEO of a nutraceuticals startup Called Mighty Health Co that makes dietary supplements with very low doses of cannabis.

I'm writing this email to advocate for the staff suggestions from the Small Business commission's 2 step registration process for cannabis companies:

**Step 1:** ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 9/26. This mirrors Oakland's process, which does not require a location (that requirement is considered a barrier to entry).

**Step 2:** Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance.

Additionally, It should be possible to share a space/address with other manufacturers or other cannabis businesses. It should mirror the food industry with many caterers or food producers sharing rental space in the same kitchen.

Many of us hope to help consumers discover new health and wellness options in the legal cannabis market. There has to be a way to help small businesses make it work in San Francisco.

Thank you for your consideration.

Sincerely,  
Dave Rothenberg  
Mighty Health Co.  
cell: 650-861-1357

171041 / 171042

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**From:** Clayton Coker <clayton@somatik.us>  
**Sent:** Sunday, October 22, 2017 1:31 PM  
**To:** Somera, Alisa (BOS); Major, Erica (BOS); Mahajan, Menaka (ECN); Office of Cannabis (ADM); SBC (ECN)  
**Cc:** Peskin, Aaron (BOS); Safai, Ahsha (BOS); Ronen, Hillary; Kim, Jane (BOS); Sheehy, Jeff (BOS); Tang, Katy (BOS); Breed, London (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Yee, Norman (BOS)  
**Subject:** Public comment regarding Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042

Dear Small Business Commission, Office of Cannabis, and Board of Supervisors,

I'm Clayton Coker of Somatik, a local Cannabis business in San Francisco. I am writing in support of the two-step registration process suggestion outlined in the Office of Small Business staff report. Here's an example of our suggested process:

**Step 1:** ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 9/26. This mirrors Oakland's process, which does not require a location (that requirement is considered a barrier to entry).

**Step 2:** Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance.

Additionally, It should be possible to share a space/address with other manufacturers or other cannabis businesses. It should mirror the food industry with many caterers or food producers sharing rental space in the same kitchen.

The rental market in SF can be prohibitively expensive, and we are a new, not yet profitable business and we're excited to be a permitted.

cannabis business helping to diversify San Francisco's economy, and preserve a wide range of business types and sizes. We need your help to ensure small businesses can not only survive, but thrive in San Francisco.

Sincerely  
Clayton Coker  
Somatik Inc.

171041 | 171042

**From:** Chris Schroeder (Somatik) <chris@somatik.us>  
**Sent:** Sunday, October 22, 2017 1:37 PM  
**To:** Clayton Coker; Somera; Alisa (BOS); Major, Erica (BOS); Mahajan, Menaka (ECN); Office of Cannabis (ADM); SBC (ECN)  
**Cc:** Peskin, Aaron (BOS); Safai, Ahsha (BOS); Ronen, Hillary; Kim, Jane (BOS); Sheehy, Jeff (BOS); Tang, Katy (BOS); Breed, London (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Yee, Norman (BOS)  
**Subject:** Public comment regarding Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042

Heya Small Business Commission, Office of Cannabis, and Board of Supervisors,

My name is Chris Schroeder, the founder of Somatik, a local Cannabis business in San Francisco. We are members of SF Made and advocates of a diverse SF economy. Thank you so much for your willingness to help usher legal cannabis businesses into San Francisco — we couldn't do it without your support.

I'm writing to support a two-step registration process as outlined in the Office of Small Business staff report. Here's an example of our suggested process:

**Step 1:** ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 9/26. This mirrors Oakland's process, which does not require a location (that requirement is considered a barrier to entry).

**Step 2:** Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance.

We also hope it will be possible to share a space/address with other manufacturers or other cannabis businesses. The cannabis industry should mirror the food industry where caterers and food producers can share rental space in the same kitchen.

The real estate market in SF can be prohibitively expensive to. Small business. We are a new, not yet profitable business and we're excited to be a permitted cannabis business helping to diversify San Francisco's economy. We need your help to ensure small businesses can not only survive, but thrive in San Francisco. Thank you for your time. I'll see some of you at tomorrow's SBC meeting.

Sincerely  
Chris Schroeder

Somatik Inc.  
[www.somatik.us](http://www.somatik.us)

--  
-Chris Schroeder

Founder, Somatik Inc.  
[www.somatik.us](http://www.somatik.us)  
415-342-3565

171041 / 171042

**From:** jmeds1@yahoo.com  
**Sent:** Sunday, October 22, 2017 1:44 PM  
**To:** Breed, London (BOS); Peskin, Aaron (BOS); Kim, Jane (BOS); Sheehy, Jeff (BOS); Yee, Norman (BOS); Tang, Katy (BOS); Ronen, Hillary; Safai, Ahsha (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Major, Erica (BOS); Office of Cannabis (ADM); Somera, Alisa (BOS); Somera, Alisa (BOS); SBC (ECN); Mahajan, Menaka (ECN)  
**Subject:** Public comment regarding Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042

*Dear Small Business Commission, Office of Cannabis, and Board of Supervisors,*

*My name is Jeffrey and*

*I am writing in support of the two-step registration process suggestion outlined in the Office of Small Business staff report.*

**Step 1:** *ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 9/26. This mirrors Oakland's process, which does not require a location (that requirement is considered a barrier to entry).*

**Step 2:** *Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance.*

*Additionally,*

*It should be possible to share a space/address with other manufacturers or other cannabis businesses. It should mirror the food industry with many caterers or food producers sharing rental space in the same kitchen. The rental market in SF is, as you know, prohibitively expensive, and I am not even breaking even yet as it is. There has to be a way to help small businesses make it work.*

*Sincerely*

*Jeffrey Kolsky  
Director J MEDS*

171041 | 171042

**From:** MoonMan's Mistress <moonmansmistress@gmail.com>  
**Sent:** Sunday, October 22, 2017 2:02 PM  
**To:** Mahajan, Menaka (ECN); SBC (ECN); Office of Cannabis (ADM); alisasomera@sfgov.org; Major, Erica (BOS); Breed, London (BOS); Peskin, Aaron (BOS); Kim, Jane (BOS); Fewer, Sandra (BOS); Sheehy, Jeff (BOS); Yee, Norman (BOS); Tang, Katy (BOS); hillary.ronen@sfgv.org; Safai, Ahsha (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS)  
**Subject:** Public comment regarding Proposed Cannabis Ordinances, BOS File Nos. 171041 and 171042

Dear Small Business Commission, Office of Cannabis, and Board of Supervisors,

My name is Jamel Ramiro and Liz Rudner, Co-Founders of MoonMan's Mistress, an edible manufacturer based out of San Francisco and we agree with the Small Business commission's suggested 2 step registration process.

**Step 1:** ALL existing businesses register and show they were in operation. Reduce amount of information required for registration to be only proof of existence by 9/26. This mirrors Oakland's process, which does not require a location (that requirement is considered a barrier to entry).

**Step 2:** Offer a provisional temporary permit to allow nonconforming businesses to move toward compliance. Additionally, It should be possible to share a space/address with other manufacturers or other cannabis businesses. It should mirror the food industry with many caterers or food producers sharing rental space in the same kitchen. The rental market in SF is, as you know, prohibitively expensive, and I am not even breaking even yet as it is. There has to be a way to help small businesses make it work.

We truly appreciate your consideration and support as a very small business in this industry doing it's best to stay compliant with all the rules and regulations. Thank you.

Sincerely,

Jamel Ramiro & Liz Rudner  
Co-Founders, MoonMan's Mistress  
[www.moonmansmistress.com](http://www.moonmansmistress.com)

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[www.moonmansmistress.com](http://www.moonmansmistress.com)  
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October 18, 2017

Mayor Edwin M. Lee  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 200  
San Francisco, CA 94102

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Nicole Elliott, Director  
San Francisco Office of Cannabis  
1 Dr. Carlton B. Goodlett Place  
City Hall  
San Francisco, CA 94102

**BOARD  
OF DIRECTORS**

Ben Bleiman  
Co-Chair

Duncan Ley  
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Anthony Black  
Director

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Director

Andy Chun  
Director

Steven Lee  
Director

Jeremy Siegel  
Executive Director

John Hinman  
General Counsel

Subject: **Draft Ordinances on Cannabis**

Dear Mayor Lee, Director Elliot, Supervisors, and Planning Commissioners,

The California Music and Culture Association (“CMAC”) advocates for nightlife, the arts, and responsible social consumption of cannabis in San Francisco. As a trade organization based in San Francisco and made up venue owners and operators, many of whom have been actively watching the City’s efforts to regulate adult use cannabis sales and consumption, CMAC would like to raise a number of concerns its members have with the draft cannabis ordinances.

**1. Consumption Limitations**

The draft ordinances make it very difficult to safely consume cannabis in San Francisco. It is already illegal to smoke in parks, on most sidewalks, in a car, and in many apartments. San Francisco’s many public housing residents, some of the City’s most vulnerable citizens, are not allowed to consume in their homes by federal law. Tourists to San Francisco are foreclosed from consuming in their hotels and in public spaces.

In the ordinances’ draft form, only currently-operating medical cannabis dispensaries that have previously received authorization for on-site consumption will be permitted to allow on-site consumption. This, plus the requirement that all consumption take place in areas that are not visible to the public means that cannabis is still being relegated to dark back rooms. **If San Francisco is going to embrace the cannabis industry, these consumption restrictions will stand firmly in the way of normalization.**

Absent more permitted locations for consumption, San Francisco residents and visitors will either consume in public, or be forced to hide in their homes. If San Francisco is committed to being a destination for responsible consumption of regulated cannabis, those that wish to partake should not have to struggle to find a place to do so.

CMAC is not calling for consumption in public, as that will only exacerbate concerns about youth exposure and likely perpetuate the disproportionate police enforcement against people of color. Rather, CMAC hopes that San Francisco can instead establish rational regulations that will begin to remove the stigma that surrounds cannabis consumption. Possible avenues would be loosening the restrictions on where cannabis can be consumed on licensed premises, or the creation of a consumption-only permit for businesses that do not sell cannabis but operate the types of establishments that cater to

PO Box 77406  
San Francisco, CA  
94107

[info@CMACsf.org](mailto:info@CMACsf.org)  
[www.CMACsf.org](http://www.CMACsf.org)

consumers who might be interested in consuming cannabis on-site. Denver's pilot program is a potential route. CMAC is eager to play an active role in helping determine the best path forward for San Francisco. **Without more consumption lounges or accessory use consumption permits, legalization will be illusory at best.**

2. **Adult Use Permits in place in time for Canna-tourism**

January 1, 2018 is fast approaching, and with it, millions of tourists to San Francisco are going to be expecting convenient access to legal adult-use cannabis. With no clear guidance on when adult-use permits will be issued, and the requirement that a business be an already-operating medical retailer prior to applying for an adult-use permit, San Francisco is poised to start the year with no licensed adult-use retailers. **Instead of leading California's regulated cannabis industry, San Francisco will instead be viewed as a restrictive and unwelcoming city, and will push investment, tax, and tourism dollars elsewhere.**

CMAC is also concerned that without sufficient licensed adult-use cannabis retailers, tourists who travel to San Francisco expecting to purchase (and consume) cannabis will simply look elsewhere. This means that the black market, the segment of the industry that regulation is striving to abolish, will instead thrive. San Francisco should have a clear plan to ensure that come January 1, 2018, consumers will have safe and regulated options for adult-use cannabis. **CMAC would recommend the creation of a temporary adult-use permit for currently-operating medical cannabis retailers.** A temporary permit such as this would not guarantee permanent privileges, but would guarantee that San Francisco will be in the position to support a safe, regulated adult-use market from the outset.

We are eager to work with you to refine the proposed cannabis regulations and prepare San Francisco for what will hopefully be a positive addition to the economy and culture of this great city.

Thank you for your leadership in supporting San Francisco's neighborhoods and small businesses.

Very truly yours,



Ben Bleiman  
Co-Chair  
CMAC



Duncan Ley  
Co-Chair  
CMAC

Co-signing organizations:

**GOLDEN GATE  
RESTAURANT  
ASSOCIATION**  
est: 1936

Gwyneth Borden, Executive Director

BOARD of SUPERVISORS



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

October 4, 2017

File No. 171042

Lisa Gibson  
Acting Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On September 26, 2017, Mayor Lee introduced the following proposed legislation:

**File No. 171042**

**Ordinance amending the Administrative, Business and Tax Regulations, Health, and Police Codes to comprehensively regulate commercial activities relating to the cultivation, manufacture, distribution, testing, sale, and delivery of medicinal and adult use cannabis by, among other things: 1) requiring businesses that engage in commercial cannabis activities to obtain a permit from the Office of Cannabis; 2) requiring the Director of the Office of Cannabis to establish an Equity Program to promote equitable ownership and employment opportunities in the cannabis industry; 3) defining eligibility for temporary and permanent cannabis business permits; 4) establishing priorities for the review of cannabis business permit applications; 5) establishing operating standards for cannabis businesses; 6) establishing criteria for granting, denying, suspending, and revoking cannabis business permits; 7) incorporating state law governing commercial cannabis activities into local law for enforcement purposes; 8) authorizing the imposition of fines and penalties for violation of local and state laws governing cannabis businesses, and establishing procedures by which cannabis businesses may appeal a fine or permit penalty; 9) prohibiting the smoking and vaping of cannabis on the premises of all cannabis businesses, except select Medicinal Cannabis Retailers, as authorized by the Department of Public Health; 10) prohibiting the consumption of cannabis and cannabis products, other than by smoking or vaping, on the premises of all cannabis businesses, except Storefront**

Cannabis Retailers and Cannabis Microbusinesses that obtain consumption permits from the Department of Public Health; 11) prohibiting until January 1, 2019, tours of cannabis cultivators, manufacturers, and cannabis microbusinesses, and authorizing the Director of Cannabis to extend the prohibition on tours, or establish guidelines for the operation of tours; 12) establishing a sunset date of March 31, 2018, for Article 33 of the Health Code ("Medical Cannabis Act"); and 13) eliminating the duty of the Clerk of the Board of Supervisors to send letters annually to state and federal officials requesting that cannabis be regulated and taxed; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

  
By: Alisa Somera, Deputy Director  
Rules Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c) (2) because it does not result in a physical change in the environment.

**REVIEWED**

By Joy Navarrete at 11:15 am, Oct 04, 2017

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
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October 4, 2017

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Lisa Gibson  
Acting Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

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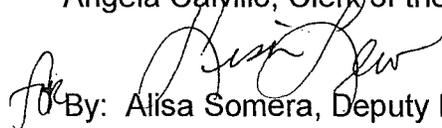
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This legislation is being transmitted to you for environmental review.

Angela Catvillo, Clerk of the Board

  
By: Alisa Somera, Deputy Director  
Rules Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning

BOARD of SUPERVISORS



City Hall  
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: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

FROM: *ll*  
*for* Alisa Somera, Deputy Director  
Rules Committee

DATE: October 4, 2017

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Rules Committee

The Board of Supervisors' Rules 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. 171042**

**Ordinance amending the Administrative, Business and Tax Regulations, Health, and Police Codes to comprehensively regulate commercial activities relating to the cultivation, manufacture, distribution, testing, sale, and delivery of medicinal and adult use cannabis by, among other things:**

- 1) requiring businesses that engage in commercial cannabis activities to obtain a permit from the Office of Cannabis;**
- 2) requiring the Director of the Office of Cannabis to establish an Equity Program to promote equitable ownership and employment opportunities in the cannabis industry;**
- 3) defining eligibility for temporary and permanent cannabis business permits;**
- 4) establishing priorities for the review of cannabis business permit applications;**
- 5) establishing operating standards for cannabis businesses;**
- 6) establishing criteria for granting, denying, suspending, and revoking cannabis business permits;**
- 7) incorporating state law governing commercial cannabis activities into local law for enforcement purposes;**
- 8) authorizing the imposition of fines and penalties for violation of local and state laws governing cannabis businesses, and establishing procedures by which cannabis businesses may appeal a fine or permit penalty;**
- 9) prohibiting the smoking and vaping of cannabis on the premises of all cannabis businesses, except select Medicinal Cannabis Retailers, as**

authorized by the Department of Public Health; 10) prohibiting the consumption of cannabis and cannabis products, other than by smoking or vaping, on the premises of all cannabis businesses, except Storefront Cannabis Retailers and Cannabis Microbusinesses that obtain consumption permits from the Department of Public Health; 11) prohibiting until January 1, 2019, tours of cannabis cultivators, manufacturers, and cannabis microbusinesses, and authorizing the Director of Cannabis to extend the prohibition on tours, or establish guidelines for the operation of tours; 12) establishing a sunset date of March 31, 2018, for Article 33 of the Health Code ("Medical Cannabis Act"); and 13) eliminating the duty of the Clerk of the Board of Supervisors to send letters annually to state and federal officials requesting that cannabis be regulated and taxed; and affirming the Planning Department's determination under the California Environmental Quality Act.

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: Menaka Mahajan, Small Business Commission

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: Barbara A. Garcia, Director, Department of Public Health  
William Scott, Police Chief, Police Department  
Vicki Hennessy, Sheriff, Sheriff's Department  
Nicole Elliott, Director, Office of Cannabis  
Joanne Hayes-White, Chief, Fire Department  
Tom Hui, Director, Department of Building Inspection  
Cynthia Goldstein, Executive Director, Board of Appeals

FROM: *el*  
*for* Alisa Somera, Deputy Director  
Rules Committee

DATE: October 4, 2017

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Mayor Lee on September 26, 2017:

**File No. 171042**

**Ordinance amending the Administrative, Business and Tax Regulations, Health, and Police Codes to comprehensively regulate commercial activities relating to the cultivation, manufacture, distribution, testing, sale, and delivery of medicinal and adult use cannabis by, among other things: 1) requiring businesses that engage in commercial cannabis activities to obtain a permit from the Office of Cannabis; 2) requiring the Director of the Office of Cannabis to establish an Equity Program to promote equitable ownership and employment opportunities in the cannabis industry; 3) defining eligibility for temporary and permanent cannabis business permits; 4) establishing priorities for the review of cannabis business permit applications; 5) establishing operating standards for cannabis businesses; 6) establishing criteria for granting, denying, suspending, and revoking cannabis business permits; 7) incorporating state law governing commercial cannabis activities into local law for enforcement purposes; 8) authorizing the imposition of fines and penalties for violation of local and**

state laws governing cannabis businesses, and establishing procedures by which cannabis businesses may appeal a fine or permit penalty; 9) prohibiting the smoking and vaping of cannabis on the premises of all cannabis businesses, except select Medicinal Cannabis Retailers, as authorized by the Department of Public Health; 10) prohibiting the consumption of cannabis and cannabis products, other than by smoking or vaping, on the premises of all cannabis businesses, except Storefront Cannabis Retailers and Cannabis Microbusinesses that obtain consumption permits from the Department of Public Health; 11) prohibiting until January 1, 2019, tours of cannabis cultivators, manufacturers, and cannabis microbusinesses, and authorizing the Director of Cannabis to extend the prohibition on tours, or establish guidelines for the operation of tours; 12) establishing a sunset date of March 31, 2018, for Article 33 of the Health Code ("Medical Cannabis Act"); and 13) eliminating the duty of the Clerk of the Board of Supervisors to send letters annually to state and federal officials requesting that cannabis be regulated and taxed; 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: Greg Wagner, Department of Public Health  
Colleen Chawla, Department of Public Health  
Rowena Carr, Police Department  
Theodore Toet, Sheriff's Department  
Katherine Gorwood, Sheriff's Department  
Eileen Hirst, Sheriff's Department  
Kelly Alves, Fire Department  
William Strawn, Department of Building Inspection  
Carolyn Jayin, Department of Building Inspection  
Gary Cantara, Board of Appeals

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE

RECEIVED  
OFFICE OF THE MAYOR  
SAN FRANCISCO  
2017 OCT 24 PM 4:57

 TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: Mayor Edwin M. Lee  
RE: Substitute Ordinance – File 171042 - Various Codes - Regulation of Cannabis Businesses  
DATE: October 24, 2017

Attached for introduction to the Board of Supervisors is a substitute ordinance amending the Administrative, Business and Tax Regulations, Health, and Police Codes to comprehensively regulate commercial activities relating to the cultivation, manufacture, distribution, testing, sale, and delivery of medicinal and adult use cannabis by, among other things: 1) requiring businesses that engage in commercial cannabis activities to obtain a permit from the Office of Cannabis; 2) requiring the Director of the Office of Cannabis to establish an Equity Program to promote equitable ownership and employment opportunities in the cannabis industry; 3) defining eligibility for temporary and permanent cannabis business permits; 4) establishing priorities for the review of cannabis business permit applications; 5) establishing operating standards for cannabis businesses; 6) establishing criteria for granting, denying, suspending, and revoking cannabis business permits; 7) incorporating state law governing commercial cannabis activities into local law for enforcement purposes; 8) authorizing the imposition of fines and penalties for violation of local and state laws governing cannabis businesses, and establishing procedures by which cannabis businesses may appeal a fine or permit penalty; 9) prohibiting the smoking and vaping of cannabis on the premises of all cannabis businesses, except select Medicinal Cannabis Retailers, as authorized by the Department of Public Health; 10) prohibiting the consumption of cannabis and cannabis products, other than by smoking or vaping, on the premises of all cannabis businesses, except Storefront Cannabis Retailers and Cannabis Microbusinesses that obtain consumption permits from the Department of Public Health; 11) prohibiting until January 1, 2019, tours of cannabis cultivators, manufacturers, and cannabis microbusinesses, and authorizing the Director of Cannabis to extend the prohibition on tours, or establish guidelines for the operation of tours; 12) prohibiting the acceptance of new applications for medical cannabis dispensary permits, effective January 1, 2018; 13) prohibiting medical cannabis dispensaries from cultivating cannabis under the authority of a medical cannabis dispensary permit, effective April 1, 2018; 14) establishing a sunset date of December 31, 2018, for Article 33 of the Health Code ("Medical Cannabis Act"); and 15) eliminating the duty of the Clerk of the Board of Supervisors to send letters annually to state and federal officials requesting that cannabis be regulated and taxed; and affirming the Planning Department's determination under the California Environmental Quality Act.

I respectfully request that this item be heard in Land Use Committee.

Please note that this legislation is co-sponsored by Supervisor Sheehy.

Should you have any questions, please contact Mawuli Tugbenyoh (415) 554-5168.

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200  
SAN FRANCISCO, CALIFORNIA 94102-4681  
TELEPHONE: (415) 554-6141

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2017 SEP 26 PM 4:13

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM:  Mayor Edwin M. Lee  
RE: Various Codes - Regulation of Cannabis Businesses  
DATE: September 26, 2017

AK

Attached for introduction to the Board of Supervisors is a ordinance amending the Administrative, Business and Tax Regulations, Health, and Police Codes to comprehensively regulate commercial activities relating to the cultivation, manufacture, distribution, testing, sale, and delivery of medicinal and adult use cannabis by, among other things: 1) requiring businesses that engage in commercial cannabis activities to obtain a permit from the Office of Cannabis; 2) requiring the Director of the Office of Cannabis to establish an Equity Program to promote equitable ownership and employment opportunities in the cannabis industry; 3) defining eligibility for temporary and permanent cannabis business permits; 4) establishing priorities for the review of cannabis business permit applications; 5) establishing operating standards for cannabis businesses; 6) establishing criteria for granting, denying, suspending, and revoking cannabis business permits; 7) incorporating state law governing commercial cannabis activities into local law for enforcement purposes; 8) authorizing the imposition of fines and penalties for violation of local and state laws governing cannabis businesses, and establishing procedures by which cannabis businesses may appeal a fine or permit penalty; 9) prohibiting the smoking and vaping of cannabis on the premises of all cannabis businesses, except select Medicinal Cannabis Retailers, as authorized by the Department of Public Health; 10) prohibiting the consumption of cannabis and cannabis products, other than by smoking or vaping, on the premises of all cannabis businesses, except Storefront Cannabis Retailers and Cannabis Microbusinesses that obtain consumption permits from the Department of Public Health; 11) prohibiting until January 1, 2019, tours of cannabis cultivators, manufacturers, and cannabis microbusinesses, and authorizing the Director of Cannabis to extend the prohibition on tours, or establish guidelines for the operation of tours; 12) establishing a sunset date of March 31, 2018, for Article 33 of the Health Code ("Medical Cannabis Act"); and 13) eliminating the duty of the Clerk of the Board of Supervisors to send letters annually to state and federal officials requesting that cannabis be regulated and taxed; and affirming the Planning Department's determination under the California Environmental Quality Act.

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