

1 [Planning Code - Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and  
Existing Non-Residential Uses and Change in 75% Gate Transparency Requirement to 20%]

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3 **Ordinance amending the Planning Code to exempt certain existing gates, railings, and**  
4 **grillwork at Non-Residential uses from transparency requirements, subject to the**  
5 **provisions for noncomplying structures, and exempt Cannabis Retail uses from**  
6 **transparency requirements for gates, railings, and grillwork for a three-year period,**  
7 **provided the Cannabis use installs artwork on any new exempt gates, and require**  
8 **removal of gates, railings, and grillwork installed pursuant to that exemption when a**  
9 **Cannabis Retail use’s business permit becomes invalid or the business ceases to**  
10 **operate, and change the transparency requirement for gates, railings, and grillwork in**  
11 **Neighborhood Commercial Districts, Commercial Districts, Residential-Commercial**  
12 **Districts, and Mixed Use Districts from 75% to 20% open to perpendicular view with**  
13 **additional requirements for fire safety; affirming the Planning Department’s**  
14 **determination under the California Environmental Quality Act; and making findings of**  
15 **consistency with the General Plan and the eight priority policies of Planning Code,**  
16 **Section 101.1, and public necessity, convenience, and welfare findings pursuant to**  
17 **Planning Code, Section 302.**

18 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
19 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
20 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
21 **Board amendment additions** are in double-underlined Arial font.  
22 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
23 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
24 subsections or parts of tables.

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

Section 1. Findings.

1 (a) The Planning Department has determined that the actions contemplated in this  
2 ordinance comply with the California Environmental Quality Act (California Public Resources  
3 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
4 Supervisors in File No. 220971 and is incorporated herein by reference. The Board affirms  
5 this determination.

6 (b) On December 8, 2022, the Planning Commission, in Resolution No. 21218,  
7 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
8 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
9 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
10 the Board of Supervisors in File No. 220971, and is incorporated herein by reference.

11 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
12 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in  
13 Planning Commission Resolution No. 21218. A copy of said Resolution is on file with the  
14 Clerk of the Board of Supervisors in File No. 220971, and is incorporated herein by reference.

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16 Section 2. Article 1.2 of the Planning Code is hereby amended by revising Section  
17 145.1, to read as follows:

18 **SEC. 145.1. STREET FRONTAGES IN NEIGHBORHOOD COMMERCIAL,**  
19 **RESIDENTIAL-COMMERCIAL, COMMERCIAL, AND MIXED USE DISTRICTS.**

20 (a) **Purpose.** The purpose of this Section 145.1 is to preserve, enhance, and promote  
21 attractive, clearly defined street frontages that are pedestrian-oriented, and fine-grained, and  
22 that are appropriate and compatible with the buildings and uses in Neighborhood Commercial  
23 Districts, Commercial Districts, Residential-Commercial Districts, and Mixed Use Districts.

24 \* \* \* \*

1 (c) **Controls.** The following requirements shall generally apply, except for those  
2 controls listed in subsections (c)(1) Above Grade Parking Setback and (c)(4) Ground Floor  
3 Ceiling Height, which only apply to a "development lot" as defined above, and except as  
4 specified in subsection (d).

5 In NC-S Districts, the applicable frontage shall be the primary facade(s) that  
6 contains customer entrances to commercial spaces.

7 \* \* \* \*

8 (7) **Gates, Railings, and Grillwork.** Except as specified in subsection (d), any  
9 decorative railings or grillwork, other than wire mesh, which is placed in front of or behind  
10 ground floor windows, shall be at least ~~20~~75~~percent~~ open to perpendicular view. Rolling or  
11 sliding security gates shall consist of open grillwork rather than solid material, so as to provide  
12 visual interest to pedestrians when the gates are closed, and to permit light to pass through  
13 mostly unobstructed. To ensure sufficient visibility for fire safety, gates that are less than 75%  
14 open to perpendicular views shall include a transparent viewing window or grill at least 10  
15 inches in height, which shall be located at least 50-60 inches above the nearest abutting  
16 sidewalk. Gates, when both open and folded or rolled ~~as well as the gate mechanism,~~ shall be  
17 recessed within, or laid flush with, the building façade. Gates and gate mechanisms shall be  
18 consistent with any objective design standards that may be adopted by the Planning  
19 Commission.

20 \* \* \* \*

21 (d) **Exceptions.**

22 (1) **Exceptions for Historic Buildings.** Specific street frontage requirements in  
23 this Section 145.1 may be modified or waived by the Planning Commission for structures  
24 designated as landmarks, significant or contributory buildings within a historic district, or  
25 buildings of merit when the Historic Preservation Commission advises that complying with

1 specific street frontage requirements would adversely affect the landmark, significant,  
2 contributory, or meritorious character of the structure, or that modification or waiver would  
3 enhance the economic feasibility of preservation of the landmark or structure.

4 **(2) Exception to Gates, Railings, and Grillwork Requirements for Cannabis Retail.**

5 (A) A Cannabis Retail use, as defined in Section 890.125 or Section 102, as  
6 applicable, is exempt from the requirements of Section 145.1(c)(7) as provided herein, and may install  
7 gates, railings, or grillwork that are less than 2075% open to perpendicular view, including features  
8 that are fully opaque, provided that such gates, railings, or grillwork are deployed only when the  
9 Cannabis Retail use is not open to the public for business.

10 (B) A Cannabis Retail use that has installed any gates, railings, or grillwork  
11 pursuant to subsection (d)(2)(A) shall remove such gates, railings, or grillwork within the earliest of  
12 the following:

13 (i) 90 days after its Cannabis Business Permit issued pursuant to Article  
14 16 of the Police Code is revoked or otherwise rendered invalid;

15 (ii) 90 days after the Cannabis Retail use ceases regular operation at the  
16 premises; or

17 (iii) 90 days after the Cannabis Retail use is abandoned or discontinued  
18 pursuant to either Section 178 or Section 183.

19 (C) Any building permit application to install gates, railings, or grillwork  
20 pursuant to subsection (d)(2)(A) shall include a statement acknowledging the requirements of  
21 subsection (d)(2)(B).

22 (D) Subsections (d)(2)(A) and (C) shall expire by operation of law three years  
23 after the effective date of the ordinance in Board File No. 220971 enacting this subsection (d)(2). In the  
24 event a Cannabis Retail use does not procure a building permit pursuant to subsection (d)(2)(A) prior  
25 to the expiration of subsection (d)(2)(A), the business shall comply with, and not be exempt from, the

1 requirements of Section 145.1(c)(7). Subsection (d)(2)(B) shall continue to apply after the expiration of  
2 subsections (d)(2)(A) and (C).

3 (E) To deter vandalism of surfaces visible from public sidewalks, any  
4 Cannabis Retail use that maintains gates, railings, or grillwork that do not qualify for the  
5 exception in subsection (d)(3)(A), and which are less than 20% open to perpendicular view,  
6 shall install a mural on the surface of the gate visible from the public sidewalk. The mural  
7 required under this subsection (d)(2)(E) shall not be a Sign as defined in Article 6 of this  
8 Code.

9 **(3) Exception for Existing Gates, Railings, or Grillwork.**

10 (A) Any Non-Residential use that has not been discontinued or abandoned as of  
11 the effective date of the ordinance enacting this subsection (d)(3) and that has gates, railings, or  
12 grillwork that are less than ~~20~~75% open to perpendicular view, including features that are fully  
13 opaque, will be deemed in compliance with the requirements of Section 145.1(c)(7), provided that such  
14 gates, railings, or grillwork existed and were occupied by the use prior to September 06, 2022, and are  
15 deployed only when a business is not open to the public. This subsection (d)(3) does not otherwise  
16 exempt a use from any required building permit.

17 (B) Existing gates, railings, and grillwork permitted pursuant to this subsection  
18 (d)(3) shall be treated as noncomplying structures subject to the restrictions on intensification,  
19 expansion, and relocation under Section 188(a), and may undergo ordinary maintenance and minor  
20 repairs as described in Section 181(b). Cannabis Retail use with gates that qualify as  
21 noncomplying structures under this subsection (d)(3) shall not be subject to the requirement  
22 for murals under subsection (d)(2)(E).

23 (C) Any Non-Residential use that seeks to be exempt from the  
24 requirements of Section 145.1(c)(7) shall procure a building permit within three years of the  
25 date of mailed notice to establish any existing gates, railings, or grillwork as a noncomplying

1 structure pursuant to this subsection (d)(3). In the event a Non-Residential use does not  
2 procure a building permit pursuant to this subsection (d)(3) prior to the expiration of three  
3 years from the date of mailed notice, the business shall be subject to fines pursuant to Section  
4 176 of this Code until a building permit establishing the existence of the gate prior to  
5 September 06, 2022, as specified in subsection (d)(3)(A), is procured. Any Non-Residential  
6 use with existing gates, railings, or grillwork that satisfy the criteria set forth in subsection  
7 (d)(3)(A) shall continue to be exempt from the requirements of Section 145.1(c)(7), but will be  
8 fined monetary penalties for failing to obtain a building permit as required in this subsection  
9 (d)(3)(C).

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

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

22 APPROVED AS TO FORM:  
23 DAVID CHIU, City Attorney

24 By: /s/ Kathy J. Shin  
25 KATHY J. SHIN  
Deputy City Attorney

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