

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## MEMORANDUM

### LAND USE AND TRANSPORTATION COMMITTEE

### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: April 18, 2023

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, April 18, 2023

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, April 18, 2023. This item was acted upon at the Committee Meeting on Monday, April 17, 2023, at 1:30 p.m., by the votes indicated.

**Item No. 28**                      **File No. 220971**

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

#### RECOMMENDED AS A COMMITTEE REPORT

Vote:

Supervisor Myrna Melgar - Aye  
Supervisor Dean Preston - Aye  
Supervisor Aaron Peskin - Aye

cc: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Alisa Somera, Legislative Deputy  
Anne Pearson, Deputy City Attorney

File No. 220971 Committee Item No. 5  
Board Item No. 28

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date April 17, 2023

Board of Supervisors Meeting Date April 18, 2023

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" 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 checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | 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 checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

- |                                     |                                     |                                  |
|-------------------------------------|-------------------------------------|----------------------------------|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral CEQA 092122</u>      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral PC 092122</u>        |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral FYI 092122</u>       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral SBC 092222</u>       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determination 101222</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>SBC Response 112822</u>       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>PC Transmittal 011023</u>     |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Melgar Comm Rpt 041723</u>    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <u>_____</u>                     |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <u>_____</u>                     |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <u>_____</u>                     |

Completed by: Erica Major Date April 13, 2023

Completed by: Erica Major Date April 18, 2023

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%]

2  
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.  
15

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).

10  
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.

15  
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



1 n:\legana\as2023\2200404\01667526.docx

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 4/3/2023)

[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%]

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

Existing Law

Planning Code Section 145.1(c)(7) contains transparency controls for gates, railings, and grillwork located in Neighborhood Commercial Districts, Commercial Districts, Residential-Commercial Districts, and Mixed Use Districts. With an exception for historic buildings, the section requires decorative railings or grillwork, other than wire mesh, placed in front of or behind ground floor windows, to be at 75% open to perpendicular view. Rolling or sliding security gates are also required to consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled, and gate mechanisms are also required to be recessed within, or laid flush with, the building façade.

Amendments to Current Law

The legislation changes the 75% transparency standard to a 20% standard and requires gates that are less than 75% open to perpendicular views to include a transparent viewing window or grill at least 10 inches in height, located at least 50-60 inches above the nearest abutting sidewalk, to ensure sufficient visibility for fire safety. Gate mechanisms are no longer required to be recessed within, or laid flush with, the building façade, and will be subject to objective design standards that may be adopted by the Planning Commission.

The legislation also exempts Cannabis Retail uses and certain existing gates, railings, or grillwork from the requirements of Section 145.1(c)(7).

The exemption for Cannabis Retail uses would expire three years after the effective date of the ordinance. During this three-year period, a Cannabis Retail use would be permitted to install gates, railings, or grillwork that are less than 75% open to perpendicular view, including features that are fully opaque, provided that such gates, railings, or grillwork are deployed only when the Cannabis Retail use is not open to the public for business. A Cannabis Retail use that does not procure a building permit for its gate before the ordinance expires shall comply with, and not be exempt from, the requirements of Section 145.1(c)(7). Cannabis Retail use gates that are less than 20% open to perpendicular view and which were not in existence and occupied before September 6, 2022 are required to install a mural on the surface of the gate visible from the public sidewalk. Any gates, railings, or grillwork installed pursuant to this exemption must be removed within the earliest of the following:

- (a) 90 days after the Cannabis Business Permit issued to the use pursuant to Article 16 of the Police Code is revoked or otherwise rendered invalid;
- (b) 90 days after the Cannabis Retail use ceases regular operation at the premises; or
- (c) 90 days after the Cannabis Retail use is abandoned or discontinued pursuant to either Section 178 or Section 183.

The exemption for existing structures applies to any Non-Residential use that has not been discontinued or abandoned as of the effective date of the ordinance, and that has gates, railings, or grillwork in use prior to September 06, 2022, which are less than 20% open to perpendicular view, including features that are fully opaque. Such gates, railings, or grillwork will be deemed in compliance with the requirements of Section 145.1(c)(7), provided that they are deployed only when a business is not open to the public. The ordinance does not otherwise exempt a use from any required building permit. Existing gates, railings, and grillwork permitted by the ordinance will be treated as noncomplying structures for purposes of the restrictions on intensification, expansion, and relocation in Section 188(a), and the provisions for ordinary maintenance and minor repairs in Section 181(b). Businesses must procure a building permit within three years of the date of mailed notice to establish their existing gates, railings, or grillwork as a noncomplying structure. In the event a non-cannabis business does not procure a building permit within this three-year period, the business shall be subject to fines under Section 176 until it obtains the required permit, but existing non-cannabis business gates that meet the requirements for exemption in the ordinance will continue to be exempt from the requirements of Section 145.1(c)(7).

#### Background Information

On September 13, 2022, Supervisor Safai introduced a proposed ordinance under Board of Supervisors File Number 220971 that would amend the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt gates, railings, and grillwork at Cannabis Retail uses from transparency requirements for a three-year period, and

require removal of these gates when a Cannabis Retail use's business permit becomes invalid or the business ceases to operate.

On December 8, 2022, the Planning Commission recommended approval of the ordinance with the following proposed modifications:

1. Require artwork on all new and existing solid security gates;
2. Allow 3 years from the date of mailed notice (to be mailed to all ground floor retail establishments) for any active, non-residential use in a NC, RC, C, or MU district with an existing security gate that does not comply with the (then) 75% transparency requirements to apply for a permit to establish the existing gate as a legal-nonconforming building element. In the event a qualifying business does not procure a building permit within the allocated time to legalize their non-compliant gate, the business would not be exempt from the requirements of Section 145.1(c)(7).
3. Add language to clarify that the amnesty program for security gate transparency requirements does not exempt historic buildings from other required review procedures or CEQA requirements;
4. Instruct the Commission to adopt objective design standards for gate mechanisms.

On April 3, 2023, the Land Use and Transportation Committee adopted substantive amendments to the ordinance introduced by the sponsor. The primary amendment was to change the 75% gate transparency requirement in Section 145.1(c)(7) to 20% and require 10-inch high viewing windows for gates that are less than 75% open to perpendicular view to ensure visibility for fire safety. The proposed amendments also removed the requirement that gate mechanisms be recessed within, or laid flush with, the building façade, and rather require gates and gate mechanisms to be consistent with objective design standards adopted by the Planning Commission. The amendments also require Cannabis Retail uses to install murals on new gates that do not meet the 20% transparency standard and require Non-Residential uses with existing nonconforming gates to procure a building permit within three years from the date of mailed notice. The Committee moved to continue hearing on the ordinance as amended to April 17, 2023.

n:\legana\as2023\2200404\01668925.docx



January 10, 2023

Ms. Angela Calvillo, Clerk  
Honorable Supervisor Safai  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2022-009700PCA:  
Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses  
Board File No. 220971

**Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Safai,

On December 8, 2022, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Safai that would amend the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt Cannabis Retail uses from transparency requirements for gates, railings, and grillwork for a three-year period, and require removal of gates, railings, and grillwork installed pursuant to that exemption when a Cannabis Retail use's business permit becomes invalid or the business ceases to operate. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Require artwork on all new and existing solid security gates.
2. Allow 3 years from the date of mailed notice (to be mailed to all ground floor retail establishments) for *any* active, non-residential use in a NC, RC, C, or MU district with an existing security gate that does not comply with the 75% transparency requirements to apply for a permit to establish the existing gate as a legal-nonconforming building element. In the event a qualifying business does not procure a building permit within the allocated time to legalize their non-compliant gate, the business shall not be exempt from the requirements of Section 145.1(c)(7).

3. Add language to clarify that the amnesty program for security gate transparency requirements does not exempt historic buildings from other required review procedures or CEQA requirements.
4. Instruct the Commission to adopt objective design standards for gate mechanisms.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,



Aaron D. Starr  
*Manager of Legislative Affairs*

cc: Kathy J. Shin, Deputy City Attorney  
Jeff Buckley, Aide to Supervisor Safai  
Erica Major, Office of the Clerk of the Board

**Attachments :**

Planning Commission Resolution  
Planning Department Executive Summary



# PLANNING COMMISSION RESOLUTION NO. 21218

**HEARING DATE: DECEMBER 8, 2022**

- Project Name:** Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses
- Case Number:** 2022-009700PCA [Board File No. 220971]
- Initiated by:** Supervisor Safai / Introduced September 13, 2022
- Staff Contact:** Audrey Merlone, Legislative Affairs  
Audrey.Merlone@sfgov.org, 628-652-7534
- Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO EXEMPT CERTAIN GATES, RAILINGS, AND GRILLWORK AT NON-RESIDENTIAL USES FROM TRANSPARENCY REQUIREMENTS, SUBJECT TO THE PROVISIONS FOR NONCOMPLYING STRUCTURES, AND EXEMPT CANNABIS RETAIL USES FROM TRANSPARENCY REQUIREMENTS FOR GATES, RAILINGS, AND GRILLWORK FOR A THREE-YEAR PERIOD, AND REQUIRE REMOVAL OF GATES, RAILINGS, AND GRILLWORK INSTALLED PURSUANT TO THAT EXEMPTION WHEN A CANNABIS RETAIL USE’S BUSINESS PERMIT BECOMES INVALID OR THE BUSINESS CEASES TO OPERATE; AFFIRMING THE PLANNING DEPARTMENT’S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND PUBLIC NECESSITY, CONVENIENCE, AND WELFARE FINDINGS PURSUANT TO PLANNING CODE, SECTION 302.**

WHEREAS, on September 13, 2022 Supervisor Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 220971, which would amend the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt Cannabis Retail uses from transparency requirements for gates, railings, and grillwork for a three-year period, and require removal of gates, railings, and grillwork installed pursuant to that exemption when a Cannabis Retail use’s business permit becomes invalid or the business ceases to operate;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on December 8, 2022; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15378 **and** 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission’s proposed recommendation(s) is/are as follows:

1. Require artwork on all new and existing solid security gates.
2. Allow 3 years from the date of mailed notice (to be mailed to all ground floor retail establishments) for *any* active, non-residential use in a NC, RC, C, or MU district with an existing security gate that does not comply with the 75% transparency requirements to apply for a permit to establish the existing gate as a legal-nonconforming building element. In the event a qualifying business does not procure a building permit within the allocated time to legalize their non-compliant gate, the business shall not be exempt from the requirements of Section 145.1(c)(7).
3. Add language to clarify that the amnesty program for security gate transparency requirements does not exempt historic buildings from other required review procedures or CEQA requirements.
4. Instruct the Commission to adopt objective design standards for gate mechanisms.

## Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The Department understands that non-compliant security gates are common in the City. It also recognizes the many economic hardships that our small business community currently faces, and that an additional burden of replacing often long-standing security gates will only add to that hardship. At the same time, the Department also believes transparency requirements are beneficial to the City for both aesthetic and public safety reasons. Completely opaque rolldown gates can create a hostile environment for pedestrians when stores are closed



and provide a tempting canvas for graffiti vandals. Additionally, the Fire Department has expressed concern that completely opaque gates may pose an increased fire risk. Weighing all these factors, the Department finds that allowing an amnesty program for existing non-compliant security gates balances the City's desire to support small businesses while still promoting vibrant public spaces. However, the Department has concerns over singling out Cannabis Retail, and implementations concerns. The following recommendations are intended to address those two issues.

## General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

### COMMERCE AND INDUSTRY ELEMENT

#### OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

##### Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

##### Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

*The proposed Ordinance, with all recommended modifications, will assist small businesses in the City by giving those with non-compliant security gates time to come into compliance, removing the financial burden or fear of enforcement fines so long as they apply for a building permit to establish their legal-nonconforming gate within three years. It will also ensure that these types of gates are eventually replaced with those that comply with the City's transparency requirements, thereby ensuring a more inviting and safer street front in the long term.*

### URBAN DESIGN ELEMENT

#### OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

##### Policy 4.3

Provide adequate lighting in public areas.

##### Policy 4.13

Improve pedestrian areas by providing human scale and interest.

*In commercial areas, continuous and well-appointed shop windows and arcades are invitations to movement. The light generated from shop windows greatly increases a feeling of safety and security to pedestrians. Allowing*

*fully opaque gates on a permanent basis would create a dark wall along street frontages. The proposed Ordinance, with all recommended modifications, will succeed in balancing the immediate economic needs of small business owners, while also preserving the transparency requirements for storefronts once legal-noncomplying gates need to be replaced. The modifications will also succeed in ensuring no new opaque gates are installed.*

### **Planning Code Section 101 Findings**

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss*

*of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

**Planning Code Section 302 Findings.**

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on December 8, 2022.



Jonas P Ionin Digitally signed by Jonas P Ionin  
Date: 2022.12.08 10:00:00 -0800

Jonas P. Ionin  
Commission Secretary

AYES: Braun, Diamond, Imperial, Koppel, Tanner

NOES: Moore

ABSENT: Ruiz

ADOPTED: December 8, 2022



# EXECUTIVE SUMMARY

## PLANNING CODE TEXT AMENDMENT

**HEARING DATE: December 8, 2022**

**90-Day Deadline:** December 12, 2022

**Project Name:** Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses

**Case Number:** 2022-009700PCA [Board File No. 220971]

**Initiated by:** Supervisor Safai / Introduced September 13, 2022

**Staff Contact:** Audrey Merlone, Legislative Affairs  
Audrey.Merlone@sfgov.org, 628-652-7534

**Reviewed by:** Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 628-652-7533

**Recommendation:** Approval with Modifications

### Planning Code Amendment

The proposed Ordinance would amend the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt Cannabis Retail uses from transparency requirements for gates, railings, and grillwork for a three-year period, and require removal of gates, railings, and grillwork installed pursuant to that exemption when a Cannabis Retail use's business permit becomes invalid or the business ceases to operate.

#### The Way It Is Now:

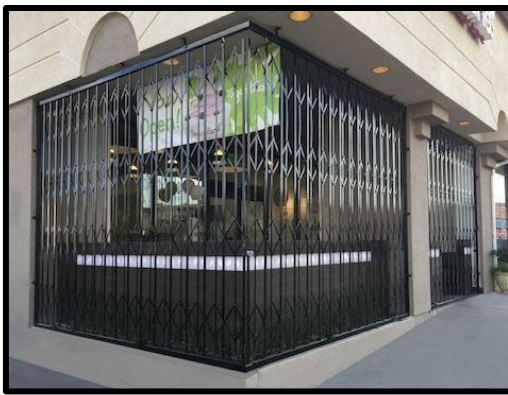
1. In Neighborhood Commercial (NC), Residential Commercial (RC), Commercial (C) & Mixed-Use (MU) districts, storefront gates, railings, and grillwork must be at least 75% open to perpendicular view.
2. There are no standards mandating when security gates may and may not be deployed, and no requirement to remove (compliant) security gates when a business vacates a particular location.

#### The Way It Would Be:

1. In NC, RC, C, and MU districts, Cannabis Retail uses **and** any other non-residential use with non-complying security gates that were in existence prior to Sept. 13, 2022, would be exempt from the 75% transparency requirement, with certain limitations.
2. Security gates that do not meet the 75% requirements must adhere to the following:

- a. The exception for Cannabis Retail uses would expire 3 years after the legislation becomes active. Cannabis Retail security gates that are less than 75% open must be immediately removed in any of the following circumstances:
  - i. 90 days after a Cannabis Business permit is revoked/rendered invalid
  - ii. 90 days after a Cannabis Retail uses ceases operations at the premises
  - iii. 90 days after the Cannabis Retail use is abandoned or discontinued (via Sec. 178 or 183)
- b. The exemption for Non-Residential uses only applies to businesses that are active as of the date of the Ordinance.
- c. Exempted Non-Residential use security gates that are less than 75% open must only be deployed when the business is not open to the public and may not intensify/expand/relocate the gate except for ordinary maintenance/minor repairs.

Gates Allowed Under Current Law:

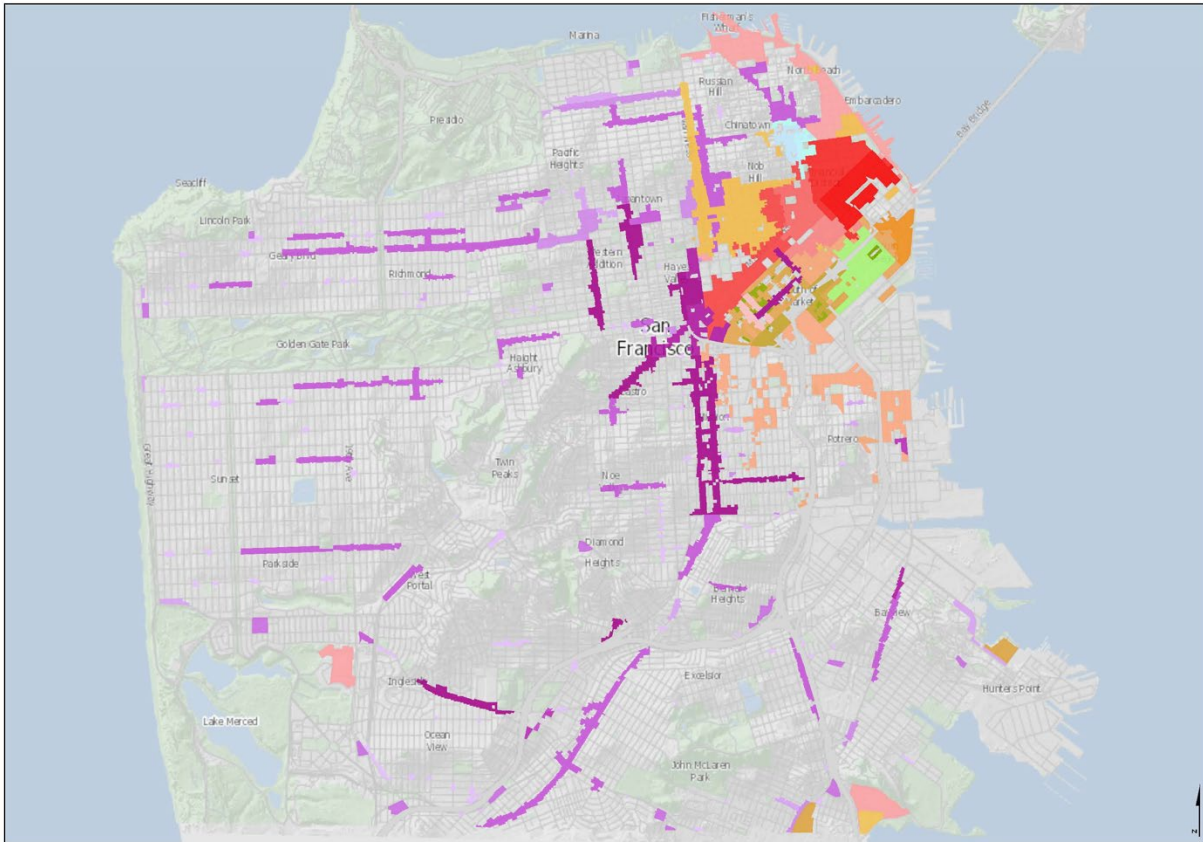


Gates Allowed Under Proposed Ordinance for *Any* Cannabis Retail Use or Non-Residential Use with an *Existing* Non-Compliant Gate:





## Neighborhood Commercial, Residential Commercial, Commercial & Mixed-Use Districts



### Background

The Planning Department’s Code Enforcement Division is complaint driven. The Department generally receives very few complaints for violations of the Planning Code’s requirements on security gates. In 2019 and 2020 only two complaints were filed for illegal security gates, one of which was in the rear of the property, and the other which also alleged other major unpermitted construction. Recently, the Department received many complaints (62) for this type of violation, all filed on the same day. Since the Supervisor introduced legislation that would exempt all these gates from the transparency requirements so long as they file a permit, the Department has enacted their standard protocols of pausing all enforcement (for these types of violations) until the legislation is either approved, disapproved, or tabled.

### Small Business Commission

The Small Business Commission heard the proposed Ordinance at their November 14, 2022, hearing. At that hearing, the Commission unanimously voted to support the legislation noting that small businesses frequently experience vandalism and burglary, and non-transparent gates protect storefront windows and deter break-ins. The Commission noted that Cannabis retail is a target for burglary because some federal laws prevent these businesses from using banking services, therefore they typically utilize cash. The Commission emphasized the need to make any requirements for gates, railings, and grillwork easily comprehensible. The Commission urged Supervisor Safai to allow for future modifications to these rules and to consider new businesses in this proposal.

## Issues and Considerations

### Planning Code Section 145.1: Storefront Transparency

Planning Code Section 145.1 regulates both storefront transparency and security gate transparency. The purpose of Planning Code Section 145.1 is to preserve, enhance, and promote attractive, clearly defined street frontages that are pedestrian-oriented, fine-grained, and that are appropriate and compatible with the buildings and uses in Neighborhood Commercial (NC), Commercial (C), Residential-Commercial (RC), and Mixed-Use (MU) districts. To that end, under Section 145.1 the front glazing of any active, non-PDR use must be at least 60% “visible” to the inside of the building. Items that may cause a storefront to be non-compliant can include painting or boarding up windows, large posters/signs, or installing opaque shelves or refrigerator units directly behind storefront glass. The proposed Ordinance would not change the requirements or provide an exception to storefront transparency requirements.

The Ordinance would create an exception for Section 145.1’s requirements for “Gates, Railings, and Grillwork” of storefronts. Currently, these gates may be installed on either side of the glass of a storefront, but in either case, they require a building permit. Current code requires security gates to be at least 75% open to perpendicular view. Sec. 145.1 also requires mechanisms that may be needed for rolldown gates (such as canisters at the top of the gate used for storing a roll-down gate when not deployed) to be installed completely within (or laid flush with) the building façade. Should this ordinance pass, Cannabis Retail and storefronts that have existing non-complying roll down gates installed prior to Sept. 13, 2022, would be exempt from the 75% transparency requirement, with certain limitations.

### Supporting Small Businesses

The Controller’s Office of Economic Analysis released a report<sup>1</sup> earlier this month on the status of the re-opening of the City’s economy. Some of the key findings were:

- San Francisco continues to lag behind most other metro areas in office attendance, at just 40% of pre-pandemic levels.
- New business formation (tracked by the number of business registration certificates filed) remains far below pre-pandemic rates, especially in the retail trades and restaurant/bar categories.

The report revealed that visitors are beginning to return to San Francisco to shop, eat, and experience the City; however, the lack of daily commuters and lower than normal number of tourists has hurt small businesses. As many businesses are still attempting to recover from the pandemic, the country is also entering a period of economic uncertainty. The Department supports small businesses, and as such must weigh the benefits of all storefronts complying with security gate transparency requirements, versus the immediate harm this requirement may have on the City’s small business recovery.

### Value of Transparent Gates

#### Aesthetic Value

The storefront is arguably the most valuable space in a store and should be used to full advantage. A transparent storefront welcomes customers inside with products and services on display, discourages crime with more “eyes on the street”, and enhances the curb appeal and value of the store and the entire neighborhood. These are the

---

<sup>1</sup> [https://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/October%20Re-Opening%20Report\\_final.pdf](https://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/October%20Re-Opening%20Report_final.pdf)

reasons the San Francisco Planning Code requires storefronts to maintain transparent windows that allow visibility into the store, and transparent security gates, even when the store is not open to the public.

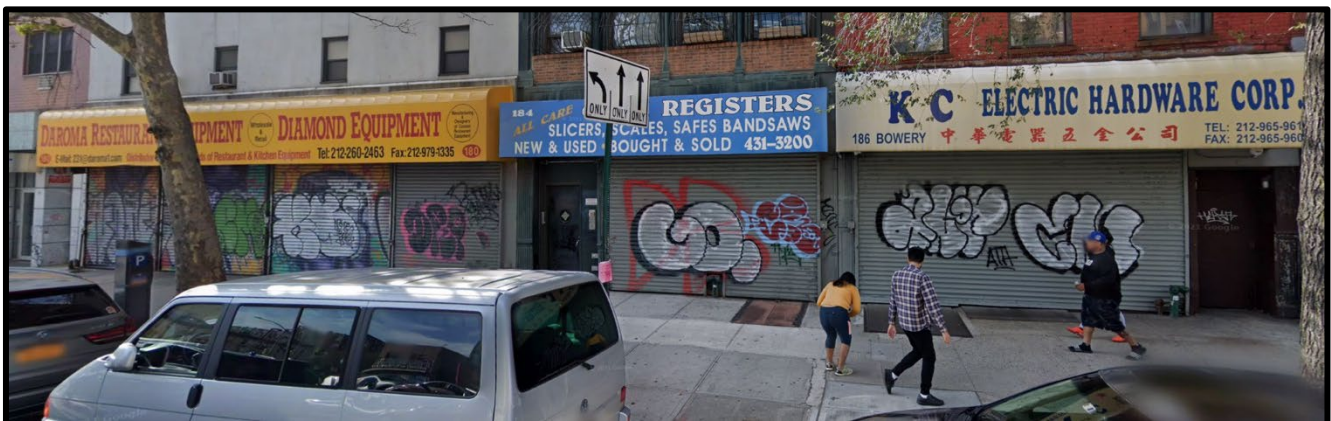
Street view with fenestrated security gates:



The same street view with one business utilizing a 100% opaque gate:



When studying other cities' transparency requirements, staff found that many cities with less stringent transparency requirements struggle with vandalism of security gates. Solid gates provide an easy surface for tagging with graffiti. This problem has become so widespread in New York City that in 2009 the city council passed a law requiring all roll-down gates to be at least 70% transparent. The law requires all roll-down gates in the city to comply with the transparency requirement by 2026.



Roll-down Gates in Manhattan

Image courtesy of Google streetview



### Public Safety

The SF Fire Department has informed staff that solid security gates can be a hinderance in the early observation and notification of a fire within the store they protect. The inability to see the orange glow of flames makes it difficult for both the Fire Department and public to locate the fire. Most commercial spaces do not have sprinklers or fire alarms, as they are not required. This means fire detection depends on passersby to see the fire or smoke and call 911. Response delays allow the fire to spread, making it more difficult to put out and endangering firefighters and adjacent businesses and homes. The longer the fire burns, the greater likelihood the fire will ignite everything inside the space or compromise the wooden floors (as many storefronts have basements for storage). SFFD staff have stated: “Early notification and early suppression keep fires from growing to a multiple alarm fire and injuring firefighters and the public. Roll down doors with some ability to see what is happening in the closed store could help the fire department”.

### **General Plan Compliance**

Objective 2 of the Commerce and Industry Element is to “Maintain and enhance a sound and diverse economic base and fiscal structure for the City”. Policy 2.1 of this Objective is to “Seek to retain existing commercial and industrial activity and to attract new such activity to the City”. The proposed Ordinance, with all recommended modifications, will assist small businesses in the City by giving those with non-compliant security gates time to come into compliance, removing the financial burden or fear of enforcement fines so long as they apply for a building permit to establish their legal-nonconforming gate within three years.

### **Racial and Social Equity Analysis**

The proposed amendments will advance racial and social equity as many of the cannabis businesses that will benefit from the legislation are “Equity Applicants”. To qualify as an Equity Applicant, the Office of Cannabis requires at least 3 of the following 6 criteria to be met:

1. Have a household income below 80% of the average median income (AMI) in San Francisco for 2018;
2. Have been arrested for or convicted of the sale, possession, use, manufacture, or cultivation of cannabis (including as a juvenile) from 1971-2016;
3. Have a parent, sibling, or child who was arrested for or convicted of the sale, possession, use, manufacture, or cultivation of cannabis (including as a juvenile) from 1971-2016;
4. Lost housing in San Francisco after 1995 through eviction, foreclosure or subsidy cancellation;
5. Attended school in the San Francisco Unified School District for a total of 5 years from 1971-2016; and/or,
6. Have lived in San Francisco census tracts for a total of 5 years from 1971-2016 where at least 17% of the households had incomes at or below the federal poverty level.

To qualify to apply for a Cannabis business permit, Equity Applicants must also:

- Apply as a person, not a company;
- Have net assets below established limits for each household. This means you will not qualify as an Equity Applicant if your 1-person household has net assets over \$193,500; and,
- Be either the business owner, own at least 40% of the business and be the CEO, own at least 51% of the business, be a board member of a non-profit cannabis business where most of the board also qualify as

Equity Applicants, or have a membership interest in a cannabis business formed as a cooperative.

Most Cannabis Retail businesses currently in operation are Equity Applicants. The Ordinance will assist these businesses by taking away a financial burden for those with non-compliant security gates. In addition to assisting the owners of Cannabis Retail uses, the Ordinance will assist *all* small businesses with existing non-compliant (with transparency) security gates by alleviating the financial burden of replacing a non-complying security gate before it reaches its useful life. These small businesses frequently hire from the adjacent neighborhood, serving a source of employment for the neighborhood's youth, entry level workers, and immigrants.

## Implementation

The Department has determined that this Ordinance will impact our current implementation procedures. The Ordinance as currently proposed could lead to an increased burden on staff who process security gate permits. The proposed Ordinance does not require existing non-residential businesses with illegal security gates to apply for a permit, which will add additional confusion for which businesses' gates will be considered "legal non-conforming". As currently drafted, the Ordinance would also require enforcement staff to monitor when Retail Cannabis businesses go out of business to remove "legal nonconforming" Cannabis Retail gates. Lastly, the proposed Ordinance would increase the number of buildings with a "legal nonconforming" element, which leads to greater difficulty in implementing the Code, and can cause confusion among the public regarding what is and is not allowed.

## Recommendation

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Do not create a separate set of requirements for Cannabis Retail uses to install security gates that are less than 75% open to perpendicular view.
2. Allow 3 years from the introduction date of the legislation for *any* active, non-residential use in a NC, RC, C, or MU district with an existing security gate that does not comply with the 75% transparency requirements to apply for a permit to establish the existing gate as a legal-nonconforming building element. In the event a qualifying business does not procure a building permit within the allocated time to legalize their non-compliant gate, the business shall not be exempt from the requirements of Section 145.1(c)(7).
3. Add language to clarify that the amnesty program for security gate transparency requirements does not exempt historic buildings from other required review procedures or CEQA requirements.

## Basis for Recommendation

The Department understands that non-compliant security gates are common in the City. It also recognizes the many economic hardships that our small business community currently faces, and that an additional burden of replacing often long-standing security gates will only add to that hardship. At the same time, the Department also believes transparency requirements are beneficial to the City for both aesthetic and public safety reasons. Completely opaque rolldown gates can create a hostile environment for pedestrians when stores are closed and

provide a tempting canvas for graffiti vandals. Additionally, the Fire Department has expressed concern that completely opaque gates may pose an increased fire risk. Weighing all these factors, the Department finds that allowing an amnesty program for existing non-compliant security gates balances the City's desire to support small businesses while still promoting vibrant public spaces. However, the Department has concerns over singling out Cannabis Retail, and implementations concerns. The following recommendations are intended to address those two issues.

**Recommendation 1: Do not create a separate set of requirements for Cannabis Retail uses to install security gates that are less than 75% open to perpendicular view.** Since California legalized adult use cannabis both the City and the state have sought to destigmatize Cannabis Retail and the cannabis industry in general. The City has done this by folding cannabis related businesses in with other comparable use definitions and by requiring that Cannabis Retail abide by the same transparency requirements as other businesses. The public has often considered Cannabis Retail as more "dangerous" than other types of retail businesses, yet that has not been proven to be the case. Allowing *only* Cannabis Retail to have solid security gates will reinforce that notion. Although the risk for break-in's may currently be higher for Cannabis Retail due to their need to operate as a cash enterprise, the City anticipates that this will not always be the case. The current federal administration is looking into declassifying cannabis as a schedule one drug, which will allow this industry to utilize the banking system. Further, more immediately, there are roll-down gates that provide comparable levels of protection to solid roll-down gates that also comply with the Planning Code's transparency requirements<sup>2</sup>. The Planning Department strongly believes that to continue to destigmatize Cannabis Retail, this use should not be treated any differently than other retail uses with valuable merchandise.

**Recommendation 2: Allow 3 years from the introduction date of the legislation for *any* active, non-residential use in a NC, RC, C, or MU district with an existing security gate that does not comply with the 75% transparency requirements to apply for a permit to establish the existing gate as a legal-nonconforming building element. In the event a qualifying business does not procure a building permit within the allocated time to legalize their non-compliant gate, the business shall not be exempt from the requirements of Section 145.1(c)(7).** All businesses that may have a qualified legal-nonconforming gate need to establish their legal status through the filing of a building permit, otherwise the Department will not be able to properly enforce the transparency non-conformance amnesty. The Department believes allowing three years for businesses to file for a permit to establish their legal-nonconforming gate is essential to the success of the amnesty program. Small businesses will need time to first learn about the program, and then gather the required materials to apply for a permit. The Department additionally recommends that the Supervisor work with the Office of Small Business and Office of Economic and Workforce Development to conduct proactive outreach to small businesses about the program.

**Recommendation 3: Add language to clarify that the amnesty program for security gate transparency requirements does not exempt historic buildings from other required review procedures or CEQA requirements.** Certain requirements on the modification of historic buildings ("A" – Known Historic Resources) are controlled via state law (CEQA) and therefore cannot be bypassed. In addition, certain requirements on the modification of landmarks or buildings within conservation districts are subject to controls in Article 10 & 11 of the Planning Code. This includes certain permit and review requirements for installation of security gates on buildings deemed to be historic. The Ordinance should add language to clarify that properties that are historic buildings ("A" - Known Historic Resources) will comply with review

---

<sup>2</sup> For examples, see images labeled "Gates Allowed Under Current Law" on page 2.

pursuant to CEQA for historic resources and that buildings subject to Articles 10 & 11 will still be subject to all applicable requirements contained in Sec. 1006 and Sec. 1110.

## Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

## Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

## Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

### Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Small Business Commission Response to Board File No. 220971
- Exhibit C: Board of Supervisors File No. 220971



# PLANNING COMMISSION DRAFT RESOLUTION

**HEARING DATE: December 8, 2022**

- Project Name:** Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses
- Case Number:** 2022-009700PCA [Board File No. 220971]
- Initiated by:** Supervisor Safai / Introduced September 13, 2022
- Staff Contact:** Audrey Merlone, Legislative Affairs  
Audrey.Merlone@sfgov.org, 628-652-7534
- Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO EXEMPT CERTAIN GATES, RAILINGS, AND GRILLWORK AT NON-RESIDENTIAL USES FROM TRANSPARENCY REQUIREMENTS, SUBJECT TO THE PROVISIONS FOR NONCOMPLYING STRUCTURES, AND EXEMPT CANNABIS RETAIL USES FROM TRANSPARENCY REQUIREMENTS FOR GATES, RAILINGS, AND GRILLWORK FOR A THREE-YEAR PERIOD, AND REQUIRE REMOVAL OF GATES, RAILINGS, AND GRILLWORK INSTALLED PURSUANT TO THAT EXEMPTION WHEN A CANNABIS RETAIL USE’S BUSINESS PERMIT BECOMES INVALID OR THE BUSINESS CEASES TO OPERATE; AFFIRMING THE PLANNING DEPARTMENT’S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND PUBLIC NECESSITY, CONVENIENCE, AND WLEFARE FINDINGS PURSUANT TO PLANNING CODE, SECTION 302.**

WHEREAS, on September 13, 2022 Supervisor Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 220971, which would amend the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt Cannabis Retail uses from transparency requirements for gates, railings, and grillwork for a three-year period, and require removal of gates, railings, and grillwork installed pursuant to that exemption when a Cannabis Retail use’s business permit becomes invalid or the business ceases to operate;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on December 8, 2022; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15378 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission’s proposed recommendation(s) is/are as follows:

1. Do not create a separate set of requirements for Cannabis Retail uses to install security gates that are less than 75% open to perpendicular view.
2. Allow 3 years from the introduction date of the legislation for *any* active, non-residential use in a NC, RC, C, or MU district with an existing security gate that does not comply with the 75% transparency requirements to apply for a permit to establish the existing gate as a legal-nonconforming building element. In the event a qualifying business does not procure a building permit within the allocated time to legalize their non-compliant gate, the business shall not be exempt from the requirements of Section 145.1(c)(7).
3. Add language to clarify that the amnesty program for security gate transparency requirements does not exempt historic buildings from other required review procedures or CEQA requirements.

## Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The Department understands that non-compliant security gates are common in the City. It also recognizes the many economic hardships that our small business community currently faces, and that an additional burden of replacing often long-standing security gates will only add to that hardship. At the same time, the Department also believes transparency requirements are beneficial to the City for both aesthetic and public

safety reasons. Completely opaque rolldown gates can create a hostile environment for pedestrians when stores are closed and provide a tempting canvas for graffiti vandals. Additionally, the Fire Department has expressed concern that completely opaque gates may pose an increased fire risk. Weighing all these factors, the Department finds that allowing an amnesty program for existing non-compliant security gates balances the City's desire to support small businesses while still promoting vibrant public spaces. However, the Department has concerns over singling out Cannabis Retail, and implementations concerns. The following recommendations are intended to address those two issues.

## General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

### COMMERCE AND INDUSTRY ELEMENT

#### OBJECTIVE 2

#### MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

##### Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

##### Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

*The proposed Ordinance, with all recommended modifications, will assist small businesses in the City by giving those with non-compliant security gates time to come into compliance, removing the financial burden or fear of enforcement fines so long as they apply for a building permit to establish their legal-nonconforming gate within three years. It will also ensure that these types of gates are eventually replaced with those that comply with the City's transparency requirements, thereby ensuring a more inviting and safer street front in the long term.*

### URBAN DESIGN ELEMENT

#### OBJECTIVE 4

#### IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

##### Policy 4.3

Provide adequate lighting in public areas.

##### Policy 4.13

Improve pedestrian areas by providing human scale and interest.

*In commercial areas, continuous and well-appointed shop windows and arcades are invitations to movement. The light generated from shop windows greatly increases a feeling of safety and security to pedestrians. Allowing fully opaque gates on a permanent basis would create a dark wall along street frontages. The proposed Ordinance, with all recommended modifications, will succeed in balancing the immediate economic needs of small business owners, while also preserving the transparency requirements for storefronts once legal-noncomplying gates need to be replaced. The modifications will also succeed in ensuring no new opaque gates are installed.*

### **Planning Code Section 101 Findings**

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;



*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

**Planning Code Section 302 Findings.**

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on December 8, 2022.

Jonas P. Ionin  
*Commission Secretary*

AYES:

NOES:

ABSENT:

ADOPTED: December 8, 2022



**EXHIBIT B**

CITY AND COUNTY OF SAN FRANCISCO  
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS  
DIRECTOR KATY TANG

November 28, 2022

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. 220971 – Planning Code - Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses - SUPPORT**

Dear Ms. Calvillo,

On November 14, 2022 the Small Business Commission (the Commission) heard BOS File No. 220971 – Planning Code - Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses. Jeff Buckley, Legislative Aide to Supervisor Safai, presented the legislation.

Mr. Buckley explained that this proposal would exempt Cannabis retail and existing non-residential uses from transparency requirements for gates, railings, and grillwork in front of ground floor windows when the business is closed. He clarified that currently, businesses must have 25% transparency in all storefront gates, railings, and grillwork to provide for emergency access and to deter neighborhood blight.

The Commission unanimously voted to support this legislation noting that small businesses frequently experience vandalism and burglary, and non-transparent gates protect storefront windows and deter break-ins. The Commission noted that Cannabis retail in particular is a target for burglary because some federal laws prevent the business from using banking services, and they typically utilize cash. The Commission emphasized the need to make any requirements for gates, railings, and grillwork to be easily comprehensible. The Commission urged Mr. Buckley, and Supervisor Safai, to allow for future modifications to these rules and to consider new businesses in this proposal.

The Commission commends Supervisor Safai and his staff for their willingness to support small businesses as they recover from the COVID-19 pandemic. Thank you for considering the Commission's recommendations. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Katy Tang". The signature is written in a cursive, flowing style.

Katy Tang  
Director, Office of Small Business

1 [Planning Code - Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and  
Existing Non-Residential Uses]

2  
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, and**  
7 **require removal of gates, railings, and grillwork installed pursuant to that exemption**  
8 **when a Cannabis Retail use's business permit becomes invalid or the business ceases**  
9 **to operate; affirming the Planning Department's determination under the California**  
10 **Environmental Quality Act; and making findings of consistency with the General Plan,**  
11 **and the eight priority policies of Planning Code, Section 101.1, and public necessity,**  
12 **convenience, and welfare findings pursuant to Planning Code, Section 302.**

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

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

21 Section 1. Findings.

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

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

6 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
7 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in  
8 Planning Commission Resolution No. \_\_\_\_\_. A copy of said Resolution is on file with  
9 the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by  
10 reference.

11  
12 Section 2. Article 1.2 of the Planning Code is hereby amended by revising Section  
13 145.1, to read as follows:

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

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

20 \* \* \* \*

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

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

3 \* \* \* \*

4 (7) **Gates, Railings, and Grillwork.** *Except as specified in subsection (d), any*  
5 decorative railings or grillwork, other than wire mesh, which is placed in front of or behind  
6 ground floor windows, shall be at least 75%~~percent~~ open to perpendicular view. Rolling or  
7 sliding security gates shall consist of open grillwork rather than solid material, so as to provide  
8 visual interest to pedestrians when the gates are closed, and to permit light to pass through  
9 mostly unobstructed. Gates, when both open and folded or rolled as well as the gate  
10 mechanism, shall be recessed within, or laid flush with, the building facade.

11 \* \* \* \*

12 (d) **Exceptions.**

13 (1) **Exceptions for Historic Buildings.** Specific street frontage requirements in  
14 this Section 145.1 may be modified or waived by the Planning Commission for structures  
15 designated as landmarks, significant or contributory buildings within a historic district, or  
16 buildings of merit when the Historic Preservation Commission advises that complying with  
17 specific street frontage requirements would adversely affect the landmark, significant,  
18 contributory, or meritorious character of the structure, or that modification or waiver would  
19 enhance the economic feasibility of preservation of the landmark or structure.

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

21 (A) A Cannabis Retail use, as defined in Section 890.125 or Section 102, as  
22 applicable, is exempt from the requirements of Section 145.1(c)(7) as provided herein, and may install  
23 gates, railings, or grillwork that are less than 75% open to perpendicular view, including features that  
24 are fully opaque, provided that such gates, railings, or grillwork are deployed only when the Cannabis  
25 Retail use is not open to the public for business.

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

4                                   (i) 90 days after its Cannabis Business Permit issued pursuant to Article  
5 16 of the Police Code is revoked or otherwise rendered invalid;

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

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

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

13                   (D) Subsections (d)(2)(A) and (C) shall expire by operation of law three years  
14 after the effective date of the ordinance in Board File No. 220971 enacting this subsection (d)(2). In the  
15 event a Cannabis Retail use does not procure a building permit pursuant to subsection (d)(2)(A) prior  
16 to the expiration of subsection (d)(2)(A), the business shall comply with, and not be exempt from, the  
17 requirements of Section 145.1(c)(7). Subsection (d)(2)(B) shall continue to apply after the expiration of  
18 subsections (d)(2)(A) and (C).

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

20                                   (A) Any Non-Residential use that has not been discontinued or abandoned as of  
21 the effective date of the ordinance enacting this subsection (d)(3) and that has gates, railings, or  
22 grillwork that are less than 75% open to perpendicular view, including features that are fully opaque,  
23 will be deemed in compliance with the requirements of Section 145.1(c)(7), provided that such gates,  
24 railings, or grillwork existed and were occupied by the use prior to September 13, 2022, and are  
25

1 deployed only when a business is not open to the public. This subsection (d)(3) does not otherwise  
2 exempt a use from any required building permit.

3 (B) Existing gates, railings, and grillwork permitted pursuant to this subsection  
4 (d)(3) shall be treated as noncomplying structures subject to the restrictions on intensification,  
5 expansion, and relocation under Section 188(a), and may undergo ordinary maintenance and minor  
6 repairs as described in Section 181(b).

7  
8 Section 3. Effective Date. This ordinance shall become effective 30 days after  
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
11 of Supervisors overrides the Mayor’s veto of the ordinance.

12  
13 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the “Note” that appears under  
18 the official title of the ordinance.

19 APPROVED AS TO FORM:  
20 DAVID CHIU, City Attorney

21 By: /s/ Kathy J. Shin  
22 KATHY J. SHIN  
Deputy City Attorney

23 n:\legana\as2022\2200404\01626394.docx



CITY AND COUNTY OF SAN FRANCISCO  
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS  
DIRECTOR KATY TANG

November 28, 2022

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. 220971 – Planning Code - Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses - SUPPORT**

Dear Ms. Calvillo,

On November 14, 2022 the Small Business Commission (the Commission) heard BOS File No. 220971 – Planning Code - Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses. Jeff Buckley, Legislative Aide to Supervisor Safai, presented the legislation.

Mr. Buckley explained that this proposal would exempt Cannabis retail and existing non-residential uses from transparency requirements for gates, railings, and grillwork in front of ground floor windows when the business is closed. He clarified that currently, businesses must have 75% transparency in all storefront gates, railings, and grillwork to provide for emergency access and to deter neighborhood blight.

The Commission unanimously voted to support this legislation noting that small businesses frequently experience vandalism and burglary, and non-transparent gates protect storefront windows and deter break-ins. The Commission noted that Cannabis retail in particular is a target for burglary because some federal laws prevent the business from using banking services, and they typically utilize cash. The Commission emphasized the need to make any requirements for gates, railings, and grillwork to be easily comprehensible. The Commission urged Mr. Buckley, and Supervisor Safai, to allow for future modifications to these rules and to consider new businesses in this proposal.

The Commission commends Supervisor Safai and his staff for their willingness to support small businesses as they recover from the COVID-19 pandemic. Thank you for considering the Commission's recommendations. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Katy Tang". The signature is written in a cursive, flowing style.

Katy Tang  
Director, Office of Small Business





**MYRNA MELGAR**

---

DATE: April 12, 2023

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee  
COMMITTEE REPORTS

---

A handwritten signature in blue ink, appearing to read "mm", located to the right of the "FROM:" line.

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, April 18, 2023, as Committee Reports:

**230311 Administrative Code - COVID-19 Tenant Protections**  
**Sponsors: Preston; Walton, Peskin, Ronen, and Chan**

Ordinance amending the Administrative Code to extend by 60 days the restrictions on evicting or imposing late fees on residential tenants who could not pay rent that came due during the COVID-19 emergency; and including within those restrictions units where the rent is controlled or regulated by the City.

**220340 Planning Code - Neighborhood Commercial and Mixed Use Zoning Districts**  
**Sponsor: Dorsey**

Ordinance amending the Planning Code to update and reorganize Neighborhood Commercial and Mixed Use Zoning District controls, including, among other things, to 1) permit Accessory Arts Activities, and production, wholesaling, and processing of goods and commodities, to occupy more than one-third of total space in Commercial (C), Downtown Residential (DTR), Eastern Neighborhoods Mixed Use, Mission Bay, and Residential-Commercial (RC) districts; 2) principally permit Arts Activities, Job Training, Public Facility, and Social Service and Philanthropic Facility uses in the Folsom Street Neighborhood Commercial Transit (NCT), SoMa NCT, Regional Commercial, and certain Eastern Neighborhoods Mixed Use districts, and in historic and nonconforming commercial buildings in Residential Enclave districts; 3) principally permit General Entertainment in the Folsom Street NCT district; 4) principally permit Bar uses on the second floor in the Folsom Street NCT and Regional Commercial districts; 5) principally permit Nighttime Entertainment on properties fronting Folsom Street between 7th Street and Division Street and

properties fronting 11th Street between Howard Street and Division Street unless they are zoned Residential Enclave District (RED) or Residential Enclave District - Mixed (RED-MX); 6) principally permit Job Training, Public Facility, and Social Service and Philanthropic Facility Uses in the SoMa NCT District and certain Eastern Neighborhoods Districts; 7) require that large developments in South of Market Mixed use districts which contain commercial spaces provide a mix of commercial space sizes; 8) require that all Nighttime Entertainment uses comply with the Entertainment Commission's good neighbor policies; and 9) remove certain limitations on location for Nighttime Entertainment and Animal Services uses in the Western SoMa Special Use District; and adopting environmental findings, findings of public necessity, convenience, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

**220971**

**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%**  
**Sponsors: Safai; Preston and Melgar**

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

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, April 17, 2023, at 1:30 p.m.

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

September 21, 2022

Planning Commission  
Attn: Jonas Ionin  
49 South Van Ness Avenue, Suite 1400  
San Francisco, CA 94103

Dear Commissioners:

On September 13, 2022, Supervisor Safai introduced the following proposed legislation:

**File No. 220971**

**Ordinance amending the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt Cannabis Retail uses from transparency requirements for gates, railings, and grillwork for a three-year period, and require removal of gates, railings, and grillwork installed pursuant to that exemption when a Cannabis Retail use's business permit becomes invalid or the business ceases to operate; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.**

The proposed ordinance is being transmitted for review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

c: Rich Hillis, Director  
Tina Tam, Deputy Zoning Administrator  
Corey Teague, Zoning Administrator  
Lisa Gibson, Environmental Review Officer  
Devyani Jain, Deputy Environmental Review Officer  
AnMarie Rodgers, Director of Citywide Planning  
Dan Sider, Chief of Staff  
Aaron Starr, Manager of Legislative Affairs  
Joy Navarrete, Environmental Planning  
Elizabeth Watty, Current Planning Division

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

September 21, 2022

**File No. 220971**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
49 South Van Ness Avenue, Suite 1400  
San Francisco, CA 94103

Dear Ms. Gibson:

On September 13, 2022, Supervisor Safai introduced the following proposed legislation:

**File No. 220971**

**Ordinance amending the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt Cannabis Retail uses from transparency requirements for gates, railings, and grillwork for a three-year period, and require removal of gates, railings, and grillwork installed pursuant to that exemption when a Cannabis Retail use's business permit becomes invalid or the business ceases to operate; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Katy Tang, Director
Small Business Commission, City Hall, Room 448
FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee
DATE: September 22, 2022
SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

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

File No. 220971

Ordinance amending the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt Cannabis Retail uses from transparency requirements for gates, railings, and grillwork for a three-year period, and require removal of gates, railings, and grillwork installed pursuant to that exemption when a Cannabis Retail use's business permit becomes invalid or the business ceases to operate; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

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

\*\*\*\*\*

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

- No Comment
Recommendation Attached

Chairperson, Small Business Commission

c: Kerry Birnbach

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## MEMORANDUM

TO: Nikesh Patel, Director, Office of Cannabis  
William Scott, Police Chief, Police Department

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: September 21, 2022

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Safai on September 13, 2022:

**File No. 220971**

**Ordinance amending the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt Cannabis Retail uses from transparency requirements for gates, railings, and grillwork for a three-year period, and require removal of gates, railings, and grillwork installed pursuant to that exemption when a Cannabis Retail use's business permit becomes invalid or the business ceases to operate; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.**

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: [erica.major@sfgov.org](mailto:erica.major@sfgov.org).

cc: Jeremy Schwartz, Office of Cannabis  
Lisa Ortiz, Police Department  
Lili Gamero, Police Department  
Diana Oliva-Aroche, Police Department  
Sgt Stacy Youngblood, Police Department

**From:** [Masood Samereie](#)  
**To:** [Major, Erica \(BOS\)](#); [Melgar, Myrna \(BOS\)](#); [Preston, Dean \(BOS\)](#); [Peskin, Aaron \(BOS\)](#)  
**Cc:** [Masood Samereie](#)  
**Subject:** Gate Transparency Ordinance  
**Date:** Saturday, February 25, 2023 9:48:34 AM  
**Attachments:** [Gate Transparency Ordinance.pdf](#)

---

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Good morning Supervisors,  
Please find attached SFCDMA letter of support for "Gate Transparency Ordinance".

Masood Samereie  
Broker/Owner | Aria Properties | BRE Lic.# 01364696

**President, San Francisco Council of District Merchants Associations**  
**Co-Founder, Avenue Greenlight**  
**Co-Founder, San Francisco Council of district Merchants Associations Community Fund**  
**President Emeritus, Castro Merchants**

Mobile | [415.215.6017](tel:415.215.6017)  
Office | [415.552.5555](tel:415.552.5555)  
Email | [Msamereie@yahoo.com](mailto:Msamereie@yahoo.com)  
Website | [www.Aria-Properties.com](http://www.Aria-Properties.com)

Advocating for 94,000 tiny Businesses with 364,000 employees, many of them living and voting in SF (10 or fewer employees).



SFCDMA

# San Francisco Council of District Merchants Associations

---

Masood Samereie  
President

Janet Tarlov  
Vice-President

Morgan Mapes  
Secretary

Tracey Sylvester  
Secretary

Mike Zwiefelhofer  
Treasurer

25, February 2023

Dear Supervisors,

We are writing today from the San Francisco Council of District Merchants Associations (SFCDMA) in support of File # 220971, the Ordinance amending the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements. It is our belief that, given the steady increase in the volume and sophistication of retail burglaries in our neighborhoods, this exception to the Planning code is necessary to adequately protect businesses with high-value merchandise and especially cannabis retailers with cash-only operations. We feel this action has particular urgency due unprecedented short-staffing at SFPD, which seems sure to only worsen in the near future.

SFCDMA has, for more than 70 years, advocated for small businesses in San Francisco's diverse and vibrant commercial corridors. Our Legislative Committee and Executive Board regularly review developing legislation that impacts our members. At our monthly member meeting on January 17, 2023, our members overwhelmingly voted in support of this proposed ordinance. We stand ready to work closely with any member of the Board of Supervisors who will champion legislation aimed at improving the often challenging climate for small business in San Francisco.

Thank you for your consideration,

Sincerely,

*Masood Samereie*

Masood Samereie, President



**From:** [Terrance Alan](#)  
**To:** [Major, Erica \(BOS\)](#)  
**Cc:** [Schwartz, Jeremy \(ADM\)](#); [Ortiz, Lisa \(POL\)](#); [Gamero, Lili \(POL\)](#); [Dianna.Olivia-Aroche@sfgov.org](mailto:Dianna.Olivia-Aroche@sfgov.org); [Stacy.Youngblood@sfgov.org](mailto:Stacy.Youngblood@sfgov.org)  
**Subject:** SUPPORT - File No. 220971 - Cannabis Retail Gate Transparency Exemption  
**Date:** Monday, October 31, 2022 7:09:48 PM

---

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Erica,

I can see this passed legislation out of committee but was unable to determine its' "next step" on the legislative process and so comes my general email of support.

I am the equity owner of a cannabis retail store in the Castro, Flore Dispensary, and suffered a break in and robbery several weeks ago. We were happy with the SFPD response of about 8 minutes and our private security response or about 5 minutes, but the robbers were in and out in 3 ½ minutes. They left damage and stolen property of about \$50,000. This loss is devastating to our new business and happened because we don't have the ability to secure our business with a roll down gate. You can see from the attached photo, that our "high security multi-point" locking vault door opened like a sardine can.

The only good news is that they did not break our glass windows while breaking in and that saved us thousands and thousands of dollars.

We upgraded locks, doors, security, and all that is possible, but the store stands vulnerable every night. The only way to secure it is with a roll down gate and such a gate is "illegal" under current planning code. I was thrilled to hear of the legislation making its way through the system and want to offer my story, photographs, testimony and what ever else can assist in getting this change approve ASAP.

Please advise what I can do.

Terrance Alan | CEO - Flore Dispensary | 415.264.1129 | 415.727.7761 conference | 10 to 10 except Sunday



