

# ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

FILE # 180912  
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December 3, 2018

## VIA EMAIL AND HAND DELIVERY

Ahsha Safai, Chair Rules Committee  
San Francisco Board of Supervisors  
c/o Victor Young, Clerk  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Violation of the California Environmental Quality Act (CEQA)  
Dynamic Mobile Cannabis Dispensaries  
File No. 180912

2018 DEC -3 AM 10:24  
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BOARD OF SUPERVISORS  
SAN FRANCISCO

Dear Supervisor Safai and Honorable Members of the Rules Committee:

### Introduction

Our office represents San Franciscans Against Traffic Congestion, which has serious concerns regarding the traffic congestion and other serious environmental impacts that will be caused by the above-captioned ordinance (the "Ordinance"). A recent study found that San Francisco has the fifth-worst traffic congestion in the world, and the third-worst congestion in the United States. (INRIX Global Traffic Scorecard, available at <http://inrix.com/scorecard/>).

Specifically, the Ordinance amends Police Code § 1622 to authorize a new class of roving cannabis deliveries. The Ordinance also amends Policed Code § 1627 to allow a new class of businesses to make deliveries – "Cannabis Microbusinesses." **This will dramatically increase the number of delivery vehicles circulating and making stops on San Francisco's already congested streets, while also authorizing cannabis delivery vehicles to drive around idly while awaiting assignments.**

Shockingly, **no environmental review of the Ordinance has been done**, despite the likely significant environmental impacts that will result from it.

The California Environmental Quality Act ("CEQA") requires public agencies to "inform their decisions with environmental considerations." (Muzzy Ranch Co. v. Solano County Airport Land Use Com. (2007) 41 Cal.4th 372, 380.) CEQA applies to any project undertaken by a

public agency that “may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (Pub. Res. Code 21065; CEQA Guidelines, § 15378.) Under CEQA, if there is a possibility that a project may have a significant effect on the environment, the lead agency must undertake environmental review of the project.

CEQA requires the traffic impacts of a project to be adequately disclosed and analyzed. (Whitman v. Board of Supervisors (1979) 88 Ca.3d 397; San Joaquin Raptor Rescue Ctr. v. County of Merced (2007) 149 Ca.4th 645.) Moreover, increased traffic can cause additional significant environmental impacts that are subject to CEQA review, including air quality impacts and increased greenhouse gas emissions. (CEQA Guidelines, §15064.4.)

Previous amendments to the Police Code relating to commercial cannabis activities (File No. 171402) were determined to not be a “project” for the purposes of CEQA. (CEQA Guidelines, § 15378 and 15060(c).) But this Ordinance goes well beyond “cleanup” legislation and will increase the environmental impact of cannabis deliveries, and as such, additional environmental review is required. As the San Francisco Office of Cannabis described the Ordinance in its November 30 stakeholders notice, these are “substantial amendments” to “the commercial cannabis regulatory framework.”

**The Ordinance Puts Idle Cannabis Delivery Vehicles on City Streets for the First Time –  
Driving Around Without a Destination**

One of the Ordinance’s most significant change relates to San Francisco Police Code § 1622(b)(10). The Code currently states:

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

That is, cannabis delivery drivers may only make deliveries when they have a pre-arranged order. Under existing law, they are not permitted to drive around endlessly while awaiting orders.

The Ordinance proposes the following change to § 1622(b)(10):

A manifest must be created for each Delivery or series of Deliveries prior to completion of that Delivery or series of Deliveries, and the Delivery employee may not make any unnecessary stops between Deliveries.

This revised language would permit delivery drivers to create a manifest *after* departure, instead of being required to remain off-street until they are assigned to a delivery. This will enable delivery drivers to operate like Uber drivers – driving around the City for an unlimited time while they await customer orders. Put simply, *it is the difference between drivers waiting for customers at a licensed taxi stand versus waiting for customers while driving around.*

No environmental review has been done to determine the impact of an unlimited number of delivery vehicles idly circling while they await customer orders.

### **The Ordinance Authorizes a New Fleet of Cannabis Delivery Vehicles On City Streets**

The Ordinance will significantly expand the number of businesses that are permitted to make cannabis deliveries. Under existing law, the only businesses allowed to deliver cannabis products are Storefront Cannabis Retailers and Delivery-Only Cannabis Retailers. By contrast, businesses that cultivate or manufacture cannabis products are not allowed to make deliveries. (Police Code § 1622.)

The Ordinance would authorize a new class of businesses to make deliveries in San Francisco: “Cannabis Microbusinesses.” A Cannabis Microbusiness is defined as “a fixed place of business where Cannabis and/or Cannabis Products are Cultivated, Manufactured, Distributed, and Sold to Customers.” (Police Code, § 1602.) Under the Ordinance, there would be no limit on the number of delivery vehicles operating on City streets – either per vendor or in the aggregate.

Yet the City has not done *any* environmental review to determine the impact of putting this new pool of delivery vehicles on our already congested streets.

### **Conclusion**

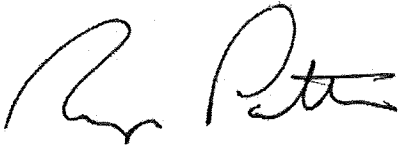
Supervisor Safai  
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By permitting mobile cannabis dispensaries and allowing Cannabis Microbusinesses to undertake deliveries for the first time, there is a clear likelihood that the Ordinance will cause significant environmental impacts. The increased traffic that will result from the Ordinance will exacerbate the City's overwhelmed streets, causing greater congestion, air quality impacts, and increased greenhouse gas emissions. These are significant environmental impact that have not been analyzed.

The City must comply with its CEQA obligations. We respectfully request that a complete environmental analysis be completed prior to the Ordinance's passage.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC

A handwritten signature in black ink, appearing to read "Ryan Patterson", written over a horizontal line.

Ryan J. Patterson

## Natoma Depot Equity Program

Enough has been said about the failure of The War on Drugs but, not enough has been done to right the wrongs of this unjust war. Of the 482 municipalities in California, 158 or 33% have approved the use of adult use and/or medical cannabis. Of these 158, only four or 2.5%: Oakland, San Francisco, Los Angeles, and Sacramento have actually taken steps to implement a cannabis equity programs. Juxtaposed the above data against California prison demographics at the end of 2016 where, 29% of the male prisoners in state prisons were African American, while only 6% of the state's male residents are African American. The incarceration rate for African American is 4,180 per 100,000. White men are imprisoned at a rate of 420 per 100,000, and imprisonment rates for Latino men and men of other races are 1,028 and 335, respectively. The ugly impact of Mass Incarceration are clear to Natoma Depot and we're committed to doing our part helping to reverse the damage from the War on Drugs.

Recognizing these trends Natoma has invested in hiring Ed Donaldson as its Director of Community Development to lead its internal efforts on equity. Ed is a native son of San Francisco still residing in his community, Bayview Hunters Point. A verified equity applicant with San Francisco's Office of Cannabis, Ed served a 10 years mandatory minimum sentence for a first time non-violent drug offense. He has over 25 years of experience in finance, affordable housing and economic development using equity strategies. He's a graduate of USC's Ross Minority Program in Real Estate Development and Finance, San Francisco State University with a B.S. in Corporate Finance, Certified Economic Development Finance Professional by the National Development Council and a Certified Salesforce Administrator. In 2010, trained in equity strategies by Oakland based Policy-Link and Urban Habitat, Ed is uniquely situated to execute upon for-profit equity projects with a double bottom-line objective. Currently, Ed serves as the Housing Subcommittee Chairperson on the Hunters Point Shipyard Implementation Committee that oversees the historic \$37.5 community benefits agreement for Jobs and Housing negotiated with Lennar/Five Points. In this work he has help the group to execute on equity strategies through the acquisition of community owned property and supporting neighborhood social enterprises that employ at-risk community members.

## Programmatic Areas

### Diversity and Inclusion – Pathways into the Cannabis Industry

- Communities Impacted by War on Drugs: OEWD Access Points
- Natoma Depot: Career Pathway: 30% Equity Goal: 600 Hrs = 17 FT Positions
- Staff Positions via Hiring and Promotions: Rapid Industry Growth
- Industry Immersion via Scholarships, Networking, Training, and Mentorship
- Meaning, Purpose and Empowerment – Workplace Wellness - The Workers Lab

### Volunteerism – Repairing the Harm from the War on Drugs

- Community Equity Driven Projects
- Incarcerated Families with Children
- Leverage Internal/External Resources
- Quarterly Staff/Community Event

### Charitable Giving – Help is not just about writing a check. Our expertise is more valuable!

- Leverage Internal/External Resources
- Intimate Community Partnerships
- Equity Focused & Driven: Social Enterprise
- Rapid Response Fund – Community Stabilization, Food Insecurity, & Income Inequality

### Equity Dispensary Deals – Lifting Many Boats!

- Profit Sharing/Equity Participation
- Equity Applicants have Careers & Equity
- Capitalize Equity by Raising Funds for Equity Brands
- Salesforce Platform for Launching/Marketing Equity Brands

Any questions regarding Natoma Depot can be forwarded to [ed@norcalcann.com](mailto:ed@norcalcann.com) or 415.789.6228

**Cannabis Equity Program**  
**Article 16 Amendments**  
**Rules Committee 12/03/18**

My name is Ed Donaldson and I'm the Director of Community Director at Natoma Depot. In this role, my work is focused on building a robust and sustainable equity program through four primary areas:

- Diversity and Inclusion
- Volunteerism
- Charitable Giving
- Equity/Profit Sharing

As a certified Economic Development Professional trained in equity strategies I offer the following recommendation to the proposed amendments to Article 16. These suggestion are based on the negative impact that these amendments will have on the overall equity program and Natoma Depot's Equity Program.

**1604 Equity Applicant**

I oppose the proposed amendment to Section 1604 (b) (5) for the following reasons:

**"Meets three or more of the following criteria".**

This will fundamentally narrow the pool of equity eligible and equity applicants by increasing the qualifying threshold from 3 to 4 areas for equity verification purposes. During the debate on the Cannabis Equity Ordinance dating back to late 2017 and since then. The concern within the industry and among policymakers has been that there aren't enough quality equity applicants. This proposed change will exacerbate that problem since it's difficult enough to find qualified equity applicants or equity eligible individuals.

- This amendment will effectively limit the equity program to those individuals impacted by a cannabis conviction since a person looking to qualify for the program would need to meet at least one of the cannabis related criteria.
- This amendment would will significantly shrink the equity eligible employment pool that companies need to meet 30% equity goals.
- It penalizes the good actors that have truly embraced the concept of equity by disrupting their planning and investment in meeting their equity program requirements.
- If this amendment does pass, it should not be made retroactive due to the great expense it would place affected equity applicants that have entered into equity deals.. These equity applicants, stop short of having an cannabis conviction, were subject to the same over-policing at the root of the failed War on Drugs.

**Desired outcome:** Language should read "Meet two or more of the following criteria" to remain consistent with the current ordinance by leaving the verification required at 3 criteria verse 4 which the amendment calls for.

**Alternative Outcome:** If amendment is adopted it should not be retroactive due to the great expense it would cause equity applicants that have entered into equity deals.

**Section 1606 - Applications for Cannabis Business Permits**

I opposed the proposed amendment to Section 1606(a)(1) for the following reasons:

- A limit on the number of permits that an equity applicant can obtain in each category violates the intent behind the cannabis equity ordinance by restricting an equity applicant ability to compete in the marketplace. Which violates the underlying goal underlying the equity program.

- If approved, this amendment would penalized those equity applicants that had the knowledge and skills to leverage the opportunity despite their stated objective of furthering the goals of equity by including other equity applicants on each respective deal. Consistent with the idea of awarding equity in exchange for consideration or incentivizing employment.
- Limiting equity applicants to one license type unfairly benefits those operator that have built capacity around the supply chain. By handing them a competitive advantage in reaching an economy of scale while, limiting equity from doing so.
- Limiting equity applicants to one license type will crowd out equity businesses from the marketplace by those companies not limited on the number of licenses they've been allowed to obtain in each category.
- If this amendment does is approved I would respectfully request that it is not retroactive since it would negatively impact the very group of people the equity law was intended to serve.

**Desired outcome:** Withdraw the proposed amendment.

**Alternative Outcome:** Allow for an equal number of permits that any one existing operator has in each category type.

### **Section 1613 - Limits on Permits**

**I opposed the amendment to Section 1613(b) for the following reasons:**

- A limit on the number of permits obtain by a single equity applicant violates the intent behind the equity program ordinance by restricting an equity applicant's ability to operate successfully in the cannabis industry. It would deny equity applicants the opportunity to compete on a level playing field as all other existing operators have been allowed to do. The very thing the equity ordinance was designed to do.
- If such a cap is put in place it must be consistent with the combine number of Article 16 & 33 retail locations that an existing operator has been allowed.
- If approved, this amendment would penalized those equity applicants that had the knowledge and skills to leverage the opportunity despite their stated objective of furthering the goals of equity by including other equity applicants on each respective deal. Consistent with the idea of awarding equity in exchange for consideration or incentivizing employment.

**Desired Outcome:** Withdraw the proposed amendment.

**Alternative outcome:** A cap that is consistent with the combine number of Article 16 & 33 permits that any one existing operators has/will been allowed to obtain.

### **1622 Dynamic Manifest Delivery**

**I support the proposed amendment to Section 1622(b)10 of Article 16 in favor of Dynamic Manifest Delivery for the follow reasons:**

- Dynamic delivery mitigates traffic congestion. South to North deliveries. Natoma has 185 drivers.
- Dynamic delivery ensures efficient access to cannabis for seniors and disabled cannabis patients.
- Dynamic delivery combats the illicit delivery market by improving accessibility to legal cannabis.
- Dynamic delivery enables Natoma to grow the outcomes from its equity program.
- Dynamic delivery creates more employment opportunities for equity eligible individuals.
- Dynamic Delivery will fulfill unmet market demand: Est SF Mkt \$300MM vs 2017 Revenue \$100MM.
- Unfortunately, the state no longer allows for cooperatives and favors a centralized form of doing business.
- With centralization it makes sense to effectuate equity through relationships with 3-party platform operators.

**Desired Outcome:** Approve amendment for Dynamic Delivery and do not split the file.

**Any questions regarding these comments can be directed to Ed Donaldson, Director of Community Development for Natoma Depot at [ed@norcalcann.com](mailto:ed@norcalcann.com) or 415.789.6228**

## Young, Victor (BOS)

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**From:** Charles Pappas <nberkhills@sbcglobal.net>  
**Sent:** Sunday, December 02, 2018 5:36 PM  
**To:** Safai, Ahsha (BOS); Yee, Norman (BOS); Stefani, Catherine (BOS); Young, Victor (BOS)  
**Cc:** Cohen, Malia (BOS); MandelmanStaff, [BOS]; Breed, Mayor London (MYR); Kim, Jane (BOS); Peskin, Aaron (BOS); Hillsman, Eugene (ADM); Wright, Edward (BOS); Angulo, Sunny (BOS)  
**Subject:** 2. 180912 Rules Committee December 3, 2018  
**Attachments:** RULES 2.odt

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

Dear Rules Committee,

In my likely inability to public comment at tomorrow morning's meeting, please consider pasted below and attached, revised comments on Regulation of Cannabis Businesses.

Furthermore, thank you, San Francisco elected officials for your long time continuing unparalleled attention, regarding cannabis issues as well as your much appreciated political oversight. While this time of cannabis legalization has problems, with local and state officials coordinated attention and action I have confidence for improvement and success.

Indeed, this Mayor and Board of Supervisors should continue the legacy of your 2005 counterparts, remembering their difficulty, efforts and diligence to help San Francisco become then the most reasonable and best regulated city/area for medical cannabis distribution and cultivation on the planet!

Best, Charley Pappas- co-founder, chairman Divinity Tree Patients Wellness Coop  
district 6- Berkeley Cannabis Commissioner

**Comments: Charley Pappas- co-founder, chairman Divinity Tree Patients Wellness Coop**

**Rules Committee Meeting:** Monday, December 3, 2018, Special Meeting

**2. 180912 [Police and Health Codes - Regulation of Cannabis Businesses] Sponsors: Mayor; Mandelman and Cohen**

Ordinance amending the Police Code by making a number of changes in the regulation of commercial cannabis activity, including, among other things:

- (1) defining ownership interest and revising Equity Criteria, for purposes of the Equity Program;
  - (2) modifying the Cannabis Equity Incubator Program requirements;
  - (3) extending by one year the possible duration of a Temporary Cannabis Business Permit;
  - (4) authorizing the Director of the Office of Cannabis to issue Cannabis Business Permits to Medical Cannabis Dispensaries forced to discontinue operations due to a no-fault lease termination before December 31, 2018;  
**As well, any and all possible considerations for the 4 or 5 remaining SF MCDs, closed 2011/12 by federal intervention.**
  - (5) modifying the order in which the Director may review and process Cannabis Business Permit applications;  
**Agree: Closed MCDs should be more fast-tracked, so many unkept, suggested considerations from SF DPH in 2012, e.g. Vapor Room reopening- 1 year permit application process, 14 months later still awaiting opening.**
  - (6) revising requirements associated with a Cannabis Business' change in ownership and structure;
  - (7) revising Cannabis Business Permit application requirements;
  - (8) requiring Cannabis Businesses to comply with all permit conditions whether or not they are currently engaging in the permitted activity;
  - (9) modifying the amount of Cannabis that may be delivered or sold to a customer; and  
**Disagree: Stick to state limit, especially considering large SF population, tourists.**
  - (10) authorizing Cannabis Microbusinesses to conduct either storefront or delivery sales, but not both, and reducing from four to three the categories of Commercial activity required to operate as a Cannabis Microbusiness;  
**Disagree: Allow both storefront and delivery for greater Equity Applicant flexibility. Also, allow all 4 categories for microbusinesses- again, more opportunity for Equity Applicant.**
- and amending the Health Code by revising eligibility requirements for medical cannabis dispensaries seeking authorization to Sell Adult Use Cannabis, and extending by one year to December 31, 2019 the date on which Article 33 (Medical Cannabis Act) expires.



**Comments: Charley Pappas- co-founder, chairman Divinity Tree Patients Wellness Coop  
Rules Committee Meeting: Monday, December 3, 2018, Special Meeting**

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**Disagree: Stick to state limit, especially considering large SF population, tourists.**

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