

BOARD of SUPERVISORS



City Hall
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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

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

DATE: May 12, 2017

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. 170516

Ordinance amending the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making a finding of public necessity, convenience, and welfare 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: Menaka Mahajan, Small Business Commission

1 [Planning Code - Medical Cannabis Dispensaries in Supervisorial District 11]

2
3 **Ordinance amending the Planning Code to limit the number of medical cannabis**
4 **dispensaries in Supervisorial District 11 to three at any given time; affirming the**
5 **Planning Department's determination under the California Environmental Quality Act;**
6 **making findings of consistency with the General Plan, and the eight priority policies of**
7 **Planning Code, Section 101.1; and making a finding of public necessity, convenience,**
8 **and welfare pursuant to Planning Code, Section 302.**

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

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

17 Section 1. Environmental and Land Use Findings.

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

23 (b) On , the Planning Commission, in Resolution No. _____, adopted findings
24 that the actions contemplated in this ordinance are consistent, on balance, with the City's
25 General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts

1 these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of
2 Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
4 proposed Planning Code amendments will serve the public necessity, convenience, and
5 welfare for the reasons set forth in Planning Commission Resolution No. _____, and the
6 Board incorporates such reasons herein by reference.

7
8 Section 2. General Findings.

9 (a) Supervisorial District 11 is adequately served by the existing number of medical
10 cannabis dispensaries (MCDs) in the District. There are three permitted MCDs currently
11 located in District 11. Two additional MCDs are located just outside the boundaries of District
12 11 in San Francisco. Two more MCDs are currently proposing to locate in District 11. District
13 11 residents recently mobilized to oppose two other proposed MCDs in District 11.

14 (b) Locations available for new MCDs in San Francisco are limited. District 11
15 includes several areas in which MCDs are permitted, resulting in a clustering of MCDs along
16 the Mission Street corridor. This clustering creates disproportionate detrimental land use
17 impacts on District 11 and its residents. Specifically, District 11 residents have complained of
18 youth cannabis usage, undesirable odors, loitering, and traffic congestion caused by existing
19 MCDs.

20 (c) District 11 is bordered by San Mateo County on the south. San Mateo County has
21 banned all MCDs from operating within its boundaries. Therefore, MCD operators may seek
22 to locate in District 11 in order to serve San Mateo County residents, as well as residents of
23 San Francisco. As a result, District 11 and its residents bear the land use impacts of MCDs
24 that serve both San Francisco and San Mateo County residents.

(d) Due to the dearth of land available in District 11 and the demand for other types of commercial establishments in District 11, limiting the use of vacant commercial property for MCDs would benefit local residents, by allowing the land to be used for other purposes. In particular, District 11 residents have requested more neighborhood-serving, family-friendly businesses, such as childcare establishments and a viable, clean, and safe grocery store in the district.

(e) District 11's business corridors are among the the worst-performing in the city. Attracting a wide range of businesses that are neighborhood-serving and family-friendly would improve the performance and usefulness of these business corridors for the local community.

Section 3. The Planning Code is hereby amended by revising Sections 711, 712, 713, 731, 734, 737, and 745, to read as follows:

SEC. 711. NC-2 – SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.

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Table 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2 ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NC-2 Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
711.84	Medical Cannabis Dispensary	§ 790.141	P #		
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SPECIFIC PROVISIONS FOR NC-2 DISTRICTS		
<i>Article 7 Code Section</i>	<i>Other Code Section</i>	<i>Zoning Controls</i>
* * * *	* * * *	* * * *
§ 711.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NC-2 District may only operate between the hours of 8 a.m. and 10 p.m. <u>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</u>
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SEC. 712. NC-3 – MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.

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**Table 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3
ZONING CONTROL TABLE**

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<i>No.</i>	<i>Zoning Category</i>	<i>§ References</i>	<i>NC-3 Controls by Story</i>		
			<i>1st</i>	<i>2nd</i>	<i>3rd+</i>
		§ 790.118			
* * * *	Institutions and Non-Retail Sales and Services				

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712.84	Medical Cannabis Dispensary	§ 790.141	P #		
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SPECIFIC PROVISIONS FOR NC-3 DISTRICTS		
<i>Article 7 Code Section</i>	<i>Other Code Section</i>	<i>Zoning Controls</i>
* * * *	* * * *	* * * *
§ 712.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NC-3 District may only operate between the hours of 8 a.m. and 10 p.m. <i>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</i>
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SEC. 713. NC-S – NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT.

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**Table 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S
ZONING CONTROL TABLE**

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<i>No.</i>	<i>Zoning Category</i>	<i>§ References</i>	<i>NC-S Controls by Story</i>
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		§ 790.118	1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * *	* * *	* * * *
			*	*	
713.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR NC-S DISTRICTS		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 713.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NC-S District may only operate between the hours of 8 a.m. and 10 p.m. <i>No more than three MCDs shall be permitted at any given time within the boundaries of <u>Supervisorial District 11.</u></i>
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SEC. 731. NCT-3 – MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

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Table 731. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT-3 ZONING CONTROL TABLE

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No.	Zoning Category	§ References	NCT-3 Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
* *	* * * *	* * *	* *	* * *	* *
* *		*	* *	*	* *
731.84	Medical Cannabis Dispensary	§ 790.141	P #	-	-
* * * *					

SPECIFIC PROVISIONS FOR NCT-3 DISTRICTS

Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 731.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NCT-3 District may only operate between the hours of 8 am and 10 pm. <i>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</i>
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4 **SEC. 734. NCT-2 – SMALL-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT**
5 **DISTRICT.**

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7 **Table 734. SMALL-SCALE NEIGHBORHOOD COMMERCIAL**
8 **TRANSIT DISTRICT NCT-2 ZONING CONTROL TABLE**

9 * * * *

No.	Zoning Category	§ References	NCT-2 Controls by Story		
		§ 790.118	1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
734.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR NCT-2 DISTRICTS		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 734.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NCT-2 District may only operate between the hours of 8 a.m. and 10 p.m. <i>No more than three MCDs shall be permitted at any given time within the boundaries of</i>

		<u>Supervisory District 11.</u>
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SEC. 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

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**Table 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE**

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No.	Zoning Category	§ Reference s	Ocean Avenue Transit Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *	Institutions and Non-Retail Sales and Services				
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
737.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR THE OCEAN AVENUE NCT DISTRICT		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 737.84	Health Code	MEDICAL CANNABIS DISPENSARIES
§ 790.141	§ 3308	Boundaries: Ocean Avenue Neighborhood Commercial Transit District
		Controls:

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		<p>(a) A Medical Cannabis Dispensary (MCD) seeking to locate within 500 feet of another MCD use may be allowed as a conditional use; provided, however, that any amendments to regulations governing the proximity of an MCD to another MCD that are applicable to MCDs Citywide shall apply in the Ocean Avenue NCT District and will supersede the conditional use requirement contained in this Section 737.</p> <p>(b) The Planning Commission shall approve the application and authorize the conditional use if, in addition to the application's satisfying the requirements of Planning Code Section 303, the facts presented establish that:</p> <ul style="list-style-type: none">(1) the MCD will bring measurable community benefits and enhancements to the Ocean Avenue NCT District;(2) the MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of patients visiting the MCD; and
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		<p>(3) the MCD has demonstrated a commitment to maintaining public safety by actively engaging with the community prior to applying for the Conditional Use, including adequate security measures in its operation of the business, and designating a community liaison to deal effectively with current and future neighborhood concerns.</p> <p>(c) In addition to the above criteria, in regard to a Conditional Use authorization application, the Planning Commission shall consider the existing concentrations of MCDs within the District.</p> <p>(d) Medical Cannabis Dispensaries in the Ocean Avenue NCT District may only operate between the hours of 8 a.m. and 10 p.m.</p> <p><i><u>(e) No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</u></i></p>
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1 **SEC. 745. EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL**
 2 **DISTRICT.**

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4 **Table 745. EXCELSIOR OUTER MISSION STREET**
 5 **NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE**

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No.	Zoning Category	§ References	Excelsior Outer Mission Street Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
745.84	Medical Cannabis Dispensary	§ 790.141	P #	P #	P #
* * * *					

SPECIFIC PROVISIONS FOR THE EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL DISTRICT		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 745.84 § 790.141	Health Code § 3308	MEDICAL CANNABIS DISPENSARIES Boundaries: Excelsior Outer Mission Street Neighborhood Commercial District. Controls: (a) A Medical Cannabis Dispensary (MCD)

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		<p>seeking to locate within 500 feet of another MCD use may be allowed as a conditional use; provided, however, that any amendments to regulations governing the proximity of an MCD to another MCD that are applicable to MCDs Citywide shall apply in the Excelsior Outer Mission NCD and will supersede the <u>conditional</u> use requirement contained in this Section 745.</p> <p>(b) In addition to the requirements of Planning Code Section 303, the Planning Commission shall approve the application and authorize the conditional use if the facts presented are such to establish that:</p> <p>(1) the MCD will bring measurable community benefits and enhancements to the Excelsior Outer Mission Street Neighborhood Commercial District,</p> <p>(2) the MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of its patients,</p> <p>(3) the MCD has demonstrated a</p>
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		<p>commitment to maintaining public safety by actively engaging with the community prior to applying for the Conditional Use, including adequate security measures in the operation of their business and designating a community liaison to deal effectively with current and future neighborhood concerns.</p> <p>(c) In addition to the above criteria, in regard to a Conditional Use authorization application, the Planning Commission shall consider the existing concentrations of MCDs within the District.</p> <p>(d) A Medical Cannabis Dispensary may only operate between the hours of 8 am and 10 pm.</p> <p>(e) A Medical Cannabis Dispensary may locate above the first floor only if it shall be accessible to persons with disabilities as required under the California Building Code.</p> <p><i><u>(f) No more than three MCDs shall be permitted at any given time within the boundaries of</u></i></p>
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		<u>Supervisorial District 11.</u>
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Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

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

By: 
VICTORIA WONG
Deputy City Attorney

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