

BOARD of SUPERVISORS



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

## MEMORANDUM

### LAND USE AND TRANSPORTATION COMMITTEE

### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair  
Land Use and Transportation Committee

FROM: Andrea Ausberry, Assistant Clerk

DATE: April 26, 2016

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, April 26, 2016

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, April 26, 2016. This item was acted upon at the Committee Meeting on Monday, April 25, 2016, at 1:30 p.m., by the votes indicated.

**Item No. 27                      File No. 160253**

Ordinance exempting The Humidor, formerly located at 275 Battery Street, from four prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor's new location at One Embarcadero Center: the prohibitions on issuing the permit for a location within 500 feet of another permitted establishment, issuing the permit in a Supervisorial District with 45 or more such permits, issuing the permit for a location not previously occupied by a permitted establishment, and issuing the permit to a tobacco shop.

**RECOMMENDED AS A COMMITTEE REPORT**

Vote: Supervisor Malia Cohen - Aye  
Supervisor Scott Wiener - Aye  
Supervisor Aaron Peskin - Aye

c: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Jon Givner, Deputy City Attorney

File No. 160253

Committee Item No. 3

Board Item No. 27

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date April 25, 2016

Board of Supervisors Meeting

Date April 26, 2016

#### Cmte Board

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

OTHER (Use back side if additional space is needed)

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Completed by: Andrea Ausberry Date April 21, 2016

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

1 [Health Code - Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit  
2 Ordinance]

3  
4 **Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two**  
5 **four prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a**  
6 **permit for The Humidor's new location at One Embarcadero Center: the prohibitions on**  
7 **issuing the permit for a location within 500 feet of another permitted establishment,**  
8 **issuing the permit in a supervisorial district with 45 or more such permits, issuing the**  
9 **permit for a location not previously occupied by a permitted establishment, and on**  
10 **issuing the permit to a tobacco shop.**

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

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

19 Section 1. General Background and Findings.

20 (a) The Humidor was founded in Santa Rosa in the mid-1980s as a family business  
21 by Baram Bakhshi, Javid Bakhshi, Jamshid Bakhshi, and Habid Bakhshi. The Humidor moved  
22 to San Francisco in 1990 and has occupied several different locations in San Francisco. It  
23 has been in operation in San Francisco (with no breaks in operation of more than two years)  
24 for a 26-year span. In 2003, The Humidor moved to One Embarcadero Center, into a space  
25 that had previously been operated as a Tobacco Shop. In 2006, The Humidor moved into a  
new location at 275 Battery Street. It has been at that location from 2006 to 2016. During the

1 entirety of its operations in San Francisco, The Humidor has been a Tobacco Shop operating  
2 with a tobacco sales permit.

3 (b) The Humidor has been nominated for inclusion on the Legacy Business Registry  
4 as a longstanding, community serving business and a valuable cultural asset of the City.

5 (c) In late 2015, the building at 275 Battery Street was sold to new owners who  
6 have refused to renew The Humidor's lease. The Humidor, after negotiations with a new  
7 landlord, is entering into a lease for a space at One Embarcadero Center, which is not the  
8 space it occupied there from 2003 to 2006.

9 (d) Section 19H.4(f)(4) of the Health Code states that no new tobacco sales permit  
10 shall be issued if the new location will be within 500 feet of the nearest point of the property  
11 line of an existing Establishment. At its new location at One Embarcadero Center, The  
12 Humidor will be within 500 feet of three existing Establishments.

13 (de) Section 19H.5 of the Health Code caps the number of establishments with  
14 tobacco sales permits in every supervisorial district at 45. Further, Section 19H.4(f)(5) of the  
15 Health Code states that no new tobacco sales permit shall be issued in any supervisorial  
16 district that has 45 or more establishments with tobacco sales permits. The supervisorial  
17 district in which The Humidor intends to be located, at One Embarcadero Center, is the same  
18 supervisorial district where The Humidor has been located, at 275 Battery Street, and the  
19 district has 45 or more establishments with tobacco sales permits.

20 (ef) Section 19H.4(f)(7) of the Health Code states that no new permits shall be  
21 issued for the operation of a Tobacco Shop. The Humidor is a Tobacco Shop.

22 (g) Section 19H.4(f)(8) of the Health Code states that no new tobacco sales permit  
23 shall be issued for a location not previously occupied by a permitted Establishment. There is  
24 no record that the new location for The Humidor at One Embarcadero Center was previously  
25

1 occupied by a permitted Establishment, although, as stated in subsection (a), The Humidor did  
2 previously occupy a different location at One Embarcadero Center.

3 (fh) Based on the facts as stated in this Section 1, reasonable grounds support  
4 granting The Humidor an exception to Sections 19H.4(f)(4), 19H.4(f)(5), and 19H.4(f)(7), and  
5 19H.4(f)(8) of the Health Code, and Section 19H.5 to the extent that that section reiterates the  
6 ban on issuance of more than 45 tobacco sales permits in a supervisory district. The  
7 Humidor is a longstanding holder of a tobacco sales permit. Its new location, at One  
8 Embarcadero Street, is less than 300 feet away from its previous location at 275 Battery  
9 Street, and is in the same supervisory district. Issuing a tobacco sales permit to The  
10 Humidor at its new location will not change the number of such permits in that supervisory  
11 district that existed when The Humidor had its tobacco sales permit at its previous location on  
12 Battery Street. Further, the space occupied by The Humidor at 275 Battery St. is  
13 approximately 970 square feet, while the space that The Humidor plans to occupy at One  
14 Embarcadero Center is approximately 730 square feet. Accordingly, The Humidor will be  
15 devoting fewer square feet to tobacco product sales at One Embarcadero Center than at its  
16 previous location at 275 Battery Street.


17 Section 2. Exemption of The Humidor From Certain Requirements of Health Code  
18 Sections 19H.4 and 19H.5.

19 For the reasons stated in Section 1 of this ordinance, The Humidor, under its current  
20 ownership, is hereby exempted from the requirements of Sections 19H.4(f)(4), 19H.4(f)(5),  
21 and 19H.4(f)(7), and 19H.4(f)(8) of the Health Code, and Section 19H.5 to the extent that that  
22 section reiterates the ban on issuance of more than 45 tobacco sales permits in a  
23 supervisory district. In providing for this exemption, it is intended that the aforementioned  
24 provisions not serve as a barrier to The Humidor's obtaining a tobacco sales permit at its new  
25

1 location at One Embarcadero Center. This ordinance is intended to apply solely to that  
2 location.

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

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:   
11 ALEETA M. VAN RUNKLE  
12 Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**

(4/19/2016, Amended in Board)

[Health Code - Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit Ordinance]

**Ordinance exempting The Humidor, formerly located at 275 Battery Street, from four prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor's new location at One Embarcadero Center: the prohibitions on issuing the permit for a location within 500 feet of another permitted establishment, issuing the permit in a supervisorial district with 45 or more such permits, issuing the permit for a location not previously occupied by a permitted establishment, and issuing the permit to a tobacco shop.**

Existing Law

Section 19H.5 of the Health Code caps the number of establishments with tobacco sales permits in every supervisorial district at 45. Further, Section 19H.4(f)(5) of the Health Code states that no new tobacco sales permit shall be issued in any supervisorial district that has 45 or more establishments with tobacco sales permits.

Section 19H.4(f)(4) of the Health Code states that no new tobacco sales permit shall be issued if the new location will be within 500 feet of the nearest point of the property line of an existing Establishment

Section 19H.4(f)(7) of the Health Code states that no new permits shall be issued for the operation of a Tobacco Shop.

Section 19H.4(f)(8) of the Health Code states that no new tobacco sales permit shall be issued for a location not previously occupied by a permitted Establishment.

Amendments to Current Law

This proposed ordinance will allow an exception to the requirements in Sections 19H.4 and 19H.5 for The Humidor. The Humidor is a longstanding holder of a tobacco sales permit. Its new location, at One Embarcadero Street, is less than 300 feet away from its previous location at 275 Battery Street, and is in the same supervisorial district. Issuing a tobacco sales permit to The Humidor at its new location will not change the number of such permits in that supervisorial district that existed when The Humidor held a tobacco sales permit at its

previous location on Battery Street. Further, the space occupied by The Humidor at 275 Battery St. is approximately 970 square feet, while the space that The Humidor plans to occupy at One Embarcadero Center is approximately 730 square feet. Accordingly, The Humidor will be devoting fewer square feet to tobacco product sales at One Embarcadero Center than at its previous location at 275 Battery Street.

#### Background Information

On April 19, the Board amended the proposed ordinance to add two additional exceptions: an exception from Section 19H.4(f)(4) of the Health Code that states that no new tobacco sales permit shall be issued if the new location will be within 500 feet of the nearest point of the property line of an existing Establishment; and Section 19H.4(f)(8) of the Health Code that states that no new tobacco sales permit shall be issued for a location not previously occupied by a permitted Establishment.

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160253



City and County of San Francisco  
Edwin M. Lee  
Mayor

## San Francisco Department of Public Health

Barbara A. Garcia, MPA  
Director of Health

April 8, 2016

Supervisor Peskin  
City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

**SUBJECT: Health Code - Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit Ordinance**

Dear Supervisor Peskin:

The San Francisco Department of Public Health (SFDPH) is writing in regard to File No. 160253 which would exempt the Humidor from provisions in the Tobacco Sales Permit Ordinance. SFDPH is aware that the Humidor Tobacco Shop was unable to renew its lease after 10 years of business at 275 Battery Street in Supervisorial District 3 and is seeking a new tobacco sales permit at One Embarcadero Center. We understand the predicament that this creates for the owners of this family business. However, the Tobacco Sales Permit Ordinance (File No. 141098) which was passed by the Board of Supervisors in December of 2014, aims to reduce the density of tobacco providers through attrition in order to counteract the disproportionate distribution of tobacco permits among supervisorial districts.

Though the Humidor was a longstanding holder of a tobacco sales permit, the intent of the Tobacco Sales Permit Ordinance is to decrease opportunities for tobacco sales in San Francisco, and reduce disproportionate exposure to tobacco outlets that exist among supervisorial districts. Supervisorial District 3 contains the greatest number of stores selling tobacco compared to other districts (167 stores), contains 18% of all tobacco retailers in San Francisco, and has one of the lowest median household incomes. Research shows that communities in lower socio-economic areas with a higher concentration of stores have significantly higher rates of smoking. Similarly, communities with a higher concentration of stores that sell tobacco also have a higher youth smoking rate.

Tobacco is the leading cause of preventable death in the United States. Areas with high smoking prevalence also have greater exposure to secondhand smoke for non-smokers which can exacerbate a wide range of health effects. For these reasons, the Department of Public Health opposes an exception to the law that was intended to support the health of San Francisco's youth and residents.

Sincerely,

A handwritten signature in black ink, appearing to read "Colleen Chawla".

Colleen Chawla

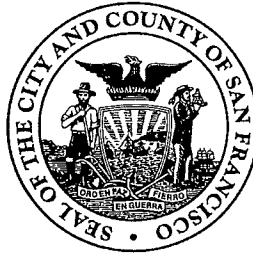
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The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.  
We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~  
~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all

barbara.garcia@sfdph.org ♦ (415) 554-2526 ♦ 101 Grove Street, Room 308, San Francisco, CA 94102

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BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Barbara Garcia, Director, Department of Public Health  
John Rahaim, Director, Planning Department  
Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector  
Regina Dick-Endrizzi, Director, Office of Small Business

FROM: Erica Major, Assistant Committee Clerk, Public Safety and Neighborhood Services Committee

DATE: March 21, 2016

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Peskin on March 15, 2016:

**File No. 160253**

**Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor's new location at One Embarcadero Center: the prohibitions on issuing the permit in a Supervisorial District with 45 or more such permits, and on issuing the permit to a tobacco shop.**

If you have any 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.

cc: Greg Wagner, Department of Public Health  
Colleen Chawla, Department of Public Health  
Scott Sanchez, Planning Department  
Sarah Jones, Planning Department  
AnMarie Rodgers, Planning Department  
Aaron Starr, Planning Department  
Joy Navarrete, Planning Department  
Jeanie Poling, Planning Department  
Amanda Kahn Fried, Office of the Treasurer and Tax Collector

Member, Board of Supervisors  
District 10



City and County of San Francisco

ORIG: COB

LC clerk, Leg  
Dep

**MALIA COHEN**  
**馬莉亞郭嫻**

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DATE: April 5, 2016

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Supervisor Malia Cohen

RE: Land Use and Transportation Committee  
COMMITTEE REPORT

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APR 6 2016 11:59 AM  
SUNNYVALE  
SAN FRANCISCO

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on April 12 2016, as a Committee Report:

**160253 Health Code - Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit Ordinance**

Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor's new location at One Embarcadero Center: the prohibitions on issuing the permit in a Supervisorial District with 45 or more such permits, and on issuing the permit to a tobacco shop.

This matter will be heard in the Land Use and Transportation Committee Regular Meeting on April 11, 2016, at 1:30 p.m.

Sincerely,

A handwritten signature in cursive script that reads "Malia".

Malia Cohen  
Member, Board of Supervisors

President, District 5  
BOARD of SUPERVISORS



BOS-11, COB, PSNS  
LTI, Leg Dep.  
Dep City atty  
Mayor  
City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7630  
Fax No. 554-7634  
TDD/TTY No. 544-5227

London Breed

**PRESIDENTIAL ACTION**

Date: April 4, 2016

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. \_\_\_\_\_  
(Primary Sponsor)

Title. \_\_\_\_\_

Transferring (Board Rule No 3.3)

File No. 160253 Peskin  
(Primary Sponsor)

Title. Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two prohibitions in the Tobacco Sales Permit Ordinance

From: Public Safety & Neighborhood Services Committee

To: Land Use & Transportation Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

London Breed, President  
Board of Supervisors

APR 5 PM 3:49  
BOARD OF SUPERVISORS  
CITY OF SAN FRANCISCO

President, District 5  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7630  
Fax No. 554-7634  
TDD/TTY No. 544-5227

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3/21/2016 @ 4:59pm  
ON BOS-11, COB  
Leg Dep, Dep City &  
PSNS  
Mayor's  
Office

London Breed

**PRESIDENTIAL ACTION**

Date: March 21, 2016

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 160253 Peskin  
(Primary Sponsor)

Title. Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit Ordinance

Transferring (Board Rule No 3.3)

File No. \_\_\_\_\_  
(Primary Sponsor)

Title. \_\_\_\_\_

From: \_\_\_\_\_ Committee

To: \_\_\_\_\_ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

London Breed, President  
Board of Supervisors

Print Form

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date \_\_\_\_\_

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor  inquires"
- 5. City Attorney request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

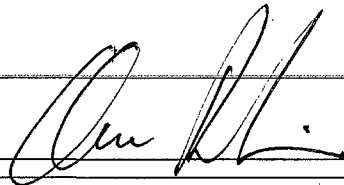
**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

**Sponsor(s):**

**Subject:**

**The text is listed below or attached:**

Signature of Sponsoring Supervisor: \_\_\_\_\_



**For Clerk's Use Only:**