

BOARD of SUPERVISORS



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MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection
Nicole Elliott, Director, Office of Cannabis
William Scott, Police Chief, Police Department

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

DATE: January 19, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Sheehy on January 9, 2018:

File No. 180054

Ordinance waiving and refunding investigation fees imposed by Building Code, Section 107A.5, for persons (as defined in Police Code, Section 1602) registered with the Office of Cannabis.

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: alisa.somera@sfgov.org.

c: William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Rowena Carr, Police Department
Kristine Demafeliz, Police Department

[Building Code - Waiver and Refund of Investigation Fee for Persons Registered with the Office of Cannabis]

Ordinance waiving and refunding investigation fees imposed by Building Code, Section 107A.5, for persons (as defined in Police Code, Section 1602) registered with the Office of Cannabis.

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

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

Section 1. Findings and Purpose.

(a) To ensure that the cannabis industry in San Francisco operates in a manner that promotes health and safety, and that otherwise conforms to applicable regulatory standards, the City and County of San Francisco has encouraged potential participants in that industry to register with the Office of Cannabis. Indeed, Persons (as defined in Police Code Section 1602) who wish to operate a Cannabis Business (as defined in the same Section) are required, under Police Code Section 1605, to be registered with the Office of Cannabis to obtain a Temporary Cannabis Business Permit. Persons who register with the Office of Cannabis are required to submit to inspections of the proposed Cannabis Business’s premises by the Department of Building Inspection, in addition to certain other City departments, agencies, and offices.

(b) Building Code Section 107A.5 imposes an investigation fee for any work performed without a required Building Code permit. As described in Building Code Table 1A-K

1 (“Penalties, Hearings, Code Enforcement Assessments”), the amount of this investigation fee
2 is generally “9 times the Permit Issuance Fee plus the original permit fee.” Imposing this
3 investigation fee on Persons who are registered with the Office of Cannabis would likely be
4 perceived as unfair or punitive by those who have cooperated with the City’s efforts to
5 regulate the cannabis industry in a manner that promotes health and safety. Likewise,
6 imposing this fee might discourage similar cooperation by such Persons in the future.

7
8 Section 2. Waiver of Investigation Fee Imposed by Building Code Section 107A.5;
9 Refund of Fees Previously Collected.

10 (a) The investigation fee imposed by Section 107A.5 of the Building Code is hereby
11 waived with respect to Persons who are registered with the Office of Cannabis. Accordingly,
12 neither the Department of Building Inspection, nor any other City department, agency, or
13 office, may collect this fee from any Person who is registered with the Office of Cannabis.

14 (b) This ordinance is retroactive to September 26, 2017. Accordingly, the Department
15 of Building Inspection, and, if applicable, any other City department, agency, or office, shall
16 refund any fees described in subsection (a) that have, as of the effective date of this
17 ordinance, already been collected.

18
19 Section 3. Sunset Provision.

20 Section 2 of this ordinance shall be inoperative after December 31, 2018. After that
21 date, Persons registered with the Office of Cannabis shall again be subject to the investigation
22 fee imposed by Section 107A.5 of the Building Code. After that date, the Department of
23 Building Inspection, and, as applicable, other City departments, agencies, or offices, may
24 impose this fee on Persons registered with the Office of Cannabis, for unpermitted work that
25 occurs, or other Building Code violations that exist, after that date.

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Section 4. Effective Date; Retroactivity.

(a) 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.

(b) As stated in subsection (b) of Section 2 of this ordinance, the fee waiver described in Section 2 of this ordinance shall be retroactive to September 26, 2017.

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

By: 
MATTHEW LEE
Deputy City Attorney

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LEGISLATIVE DIGEST

[Building Code - Waiver and Refund of Investigation Fee for Persons Registered with the Office of Cannabis]

Ordinance waiving and refunding investigation fees imposed by Building Code, Section 107A.5, for persons (as defined in Police Code Section 1602) registered with the Office of Cannabis.

Existing Law

To obtain a Temporary Cannabis Business Permit, applicants must register with the Office of Cannabis.

Registered cannabis businesses are required to submit to inspections of their premises by the Department of Building Inspection, in addition to other City agencies. These DBI inspections have discovered work that was performed without required Building Code permits. Building Code Section 107A.5 imposes a fee (which Section 107A.5 describes as an "investigation fee") for work performed without a required Building Code permit. The amount of this fee is substantial-generally, "9 times the Permit Issuance Fee plus the original permit fee."

Amendments to Current Law

This ordinance waives the "investigation fee" imposed by Building Code Section 107A.5 with respect to potential cannabis businesses registered with the Office of Cannabis. This fee waiver is retroactive to September 26, 2017 (the date on which the Office of Cannabis began accepting registrations); thus, the ordinance would require the City to refund fees collected since that date.

The ordinance sunsets after December 31, 2018. After that date, registered cannabis businesses shall again be subject to "investigation fees" under Building Code Section 107A.5.

Nothing in this ordinance would exempt registered cannabis businesses from the responsibility to bring their premises into compliance with the Building Code, or from any other fees imposed by the Building Code.