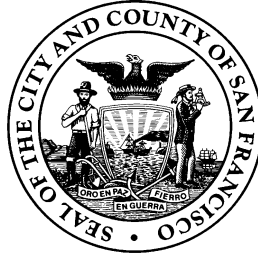


BOARD of SUPERVISORS



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October 10, 2019

Planning Commission
Attn: Jonas Ionin
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On October 1, 2019, the following legislation was introduced:

File No. 190965

Ordinance amending the Administrative, Police, Health, Planning, Business and Tax Regulations, and Campaign and Government Codes to change the name of the Office of Cannabis to the Office of Cannabis Regulation (“Office”); amending the Police Code to 1) create a Cannabis Nursery Permit; 2) prohibit equity applicants from applying for a Cannabis Business Permit through a cooperative; 3) clarify where in the processing order the Office will review and process Cannabis Business Permit applications from holders of Temporary Cannabis Business Permits and Medical Cannabis Dispensaries; 4) prohibit Cannabis Retailers from using business names likely to attract minors as customers or mislead the public into believing that the business is authorized to sell products to minors; 5) remove the requirement that a Cannabis Business Permit application be denied following any violation of Article 16 of the Police Code, and instead require permit denial after a refusal to remediate an Article 16 violation of which they have been notified by the Office; 6) require Cannabis Distributors to notify the Office when they learn that Cannabis products in their possession have failed state testing standards; and affirming the Planning Department’s determination under the California Environmental Quality Act.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b) for public hearing and recommendation. The ordinance is pending before the Rules Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board



By: Victor Young, Clerk
Rules Committee

Attachment

- c: John Rahaim, Director
- Dan Sider, Director of Executive Programs
- Aaron Starr, Manager of Legislative Affairs
- AnMarie Rodgers, Director of Citywide Planning
- Scott Sanchez, Acting Deputy Zoning Administrator
- Corey Teague, Zoning Administrator
- Lisa Gibson, Environmental Review Officer
- Devyani Jain, Deputy Environmental Review Officer
- Joy Navarrete, Environmental Planning
- Laura Lynch, Environmental Planning
- Naomi Kelly, City Administrator

1 [Various Codes - Renaming Office of Cannabis to Office of Cannabis Regulation - Cannabis
2 Regulation]

3 **Ordinance amending the Administrative, Police, Health, Planning, Business and Tax**
4 **Regulations, and Campaign and Government Codes to change the name of the Office**
5 **of Cannabis to the Office of Cannabis Regulation (“Office”); amending the Police Code**
6 **to 1) create a Cannabis Nursery Permit; 2) prohibit equity applicants from applying for**
7 **a Cannabis Business Permit through a cooperative; 3) clarify where in the processing**
8 **order the Office will review and process Cannabis Business Permit applications from**
9 **holders of Temporary Cannabis Business Permits and Medical Cannabis Dispensaries;**
10 **4) prohibit Cannabis Retailers from using business names likely to attract minors as**
11 **customers or mislead the public into believing that the business is authorized to sell**
12 **products to minors; 5) remove the requirement that a Cannabis Business Permit**
13 **application be denied following any violation of Article 16 of the Police Code, and**
14 **instead require permit denial after a refusal to remediate an Article 16 violation of**
15 **which they have been notified by the Office; 6) require Cannabis Distributors to notify**
16 **the Office when they learn that Cannabis products in their possession have failed state**
17 **testing standards; and affirming the Planning Department’s determination under the**
18 **California Environmental Quality Act.**

19
20
21 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
22 **Additions to Codes** are in *single-underline italics Times New Roman font*.
23 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
24 **Board amendment additions** are in double-underlined Arial font.
25 **Board amendment deletions** are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

2
3 Section 1. Environmental Findings.

4 The Planning Department has determined that the actions contemplated in this
5 ordinance comply with the California Environmental Quality Act (California Public Resources
6 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
7 Supervisors in File No. ___ and is incorporated herein by reference. The Board affirms this
8 determination.

9
10 Section 2. Renaming of Office.

11 (a) The Office of Cannabis is renamed the Office of Cannabis Regulation. This name
12 change is not intended to change the meaning or substantive effect of any provision in the
13 Municipal Code. This name change is implemented throughout the Municipal Code, as stated
14 in subsections (b)-(g). But in the event the Municipal Code contains any reference to "Office
15 of Cannabis," not identified in subsections (b)-(g), that term shall be deemed changed to
16 "Office of Cannabis Regulation," and the City Attorney shall direct the publisher of the
17 Municipal Code to change said term to "Office of Cannabis Regulation."

18 (b) The Administrative Code is amended by deleting the term "Office of Cannabis" and
19 replacing it with "Office of Cannabis Regulation" in the following Sections: 2A.420 (heading);
20 2A.420(a), (b)(1), (b)(3), (b)(7)(A), (b)(7)(E); 2A.421(a), (b); 5.38-3; 5.38-5(e); 5.38-6(a)(1),
21 (b); 10.100-162 (heading); and 10.100-162(b).

22 (c) The Police Code is amended by deleting the term "Office of Cannabis" and
23 replacing it with "Office of Cannabis Regulation" in the following Sections: 1600(k), (l);
24 1601(a); 1602 (definitions of "Cannabis Business Registration Period" and "Office");
25 1603(a)(1); 1605(a), (b), (c)(1)(A), (c)(1)(C), (d), (d)(5), (d)(6), (j), (k); 1606(a)(6), (c);

1 1608(b)(2), (d)(1); 1609(b)(19), (j); 1613(b); 1614; 1617(b); 1618(h), (q), (ff)(2); 1621(c)(6);
2 1621.5(i)(3); 1622(a); and 1625(b)(1), (b)(2), (b)(3).

3 (d) The Health Code is amended by deleting the term "Office of Cannabis" and
4 replacing it with "Office of Cannabis Regulation" in the following Sections: 8A.2(b);
5 1009.23(f)(1); 3311(b)(3), (b)(3)(B)(i); and 3322(d)(5), (d)(7), (f)(1), (f)(2).

6 (e) The Planning Code is amended by deleting the term "Office of Cannabis" and
7 replacing it with "Office of Cannabis Regulation" in the following Sections: 102 (definition of
8 "Cannabis Retail"); 202.2(a)(5)(A), (a)(5)(B), (e)(1)(A), (e)(1)(B); 204.3(a)(3); 210 (Table
9 210.3, note 21); and 890.125.

10 (f) The Business and Tax Regulations Code is amended by deleting the term "Office of
11 Cannabis" and replacing it with "Office of Cannabis Regulation" in the following Sections:
12 1.77; 8(e)(9)(E); and 249.20(a), (b), (c), (e), (g).

13 (g) The Campaign and Government Code is amended by deleting the term "Office of
14 Cannabis" and replacing it with "Office of Cannabis Regulation" in the following Sections: 3.1-
15 251.

16
17 Section 3. Article 16 of the Police Code is hereby amended by revising Sections 1602
18 (with new definition placed in correct alphabetical sequence), 1604, 1606, 1607, 1609, 1615,
19 1619, 1626, and 1634, to read as follows:

20
21 **SEC. 1602. DEFINITIONS.**

22 As used in this Article 16, the following words or phrases shall mean:

23 * * * *

1 “Cannabis Nursery” has the meaning set forth for the term “Nursery” in California Code of
2 Regulations, Title 3, Division 8, Chapter 1, Sections 8000(w) and 8201(e), as amended from time to
3 time.

4 * * * *

5
6 **SEC. 1604. EQUITY PROGRAM.**

7 * * * *

8 (b) **Equity Applicants.** The Equity Program shall offer priority permit processing, as
9 provided in Section 1606, to an individual who meets the following Equity Criteria (“Equity
10 Applicant”):

11 * * * *

12 (3) Submits an application for a Cannabis Business Permit in any of the following
13 capacities:

14 (A) As the sole owner/operator of the Applicant;

15 (B) As an individual with an ownership interest of at least 40% in the corporate
16 Applicant, and who is also the Chief Executive Officer of the corporate Applicant;

17 (C) As an individual with an ownership interest of at least 51% in the corporate
18 Applicant; or

19 (D) As the Executive Director or member of the board of directors of a not-for-
20 profit Applicant where a majority of the members of the board of directors satisfy the
21 requirements of subsections (b)(2) and (4) of this Section 1604; ~~or~~ and

22 ~~(E) As an individual with a membership interest in an Applicant formed as a~~
23 ~~cooperative; and~~

24 (4) Meets three or more of the additional following criteria:

25 * * * *

1
2 **SEC. 1606. APPLICATIONS FOR CANNABIS BUSINESS PERMITS.**

3 * * * *

4 (c) The Office of Cannabis Regulation shall review and process applications for
5 Cannabis Business Permits in an order that reflects the Applicant's priority category:

6 * * * *

7 (4) Fourth priority: applications from Applicants that were operating in compliance
8 with the Compassionate Use Act of 1996 before September 1, 2016, or that meet the
9 requirements of Section 1606(a)(5), or that hold Temporary Cannabis Business Permits under Section
10 1605(d);

11 * * * *

12
13 **SEC. 1607. CANNABIS BUSINESS PERMITS.**

14 (a) For the purpose of regulating the Commercial Cultivation, Manufacture, Testing,
15 Distribution, Sale, and Delivery of Cannabis, the Director may issue the following permits:

16 * * * *

- 17 (7) Cannabis Retailer; ~~and~~
18 (8) Delivery-Only Cannabis Retailer; and
19 (9) Cannabis Nursery.

20
21 **SEC. 1609. PERMIT APPLICATIONS.**

22 * * * *

23 (h) **Additional Information Required of Applicants for Storefront Cannabis**
24 **Retailer permits.** In addition to the information required under subsection (b) of this Section
25

1 1609, an Applicant for a Storefront Cannabis Retailer permit shall also submit as part of its
2 application:

3 * * * *

4 (6) A statement from the Applicant that the Applicant will not assign any name to the
5 Cannabis Business that is likely to mislead members of the public into believing that the Cannabis
6 Business is a business of a type that is legally permitted to sell products to minors, or is likely to entice
7 minors to patronize the business.

8 ~~(67)~~ If the Applicant intends to Deliver Cannabis or Cannabis Products to
9 Customers, the Applicant shall also provide:

10 * * * *

11 ~~(78)~~ If the Applicant intends to operate a Compassion Program, as set forth in
12 subsection (aa) of Section 1618 of this Article 16, a description of the proposed terms and
13 conditions of such program.

14 * * * *

15 (j) Additional Information Required of Applicants for Cannabis Nursery permits. In addition
16 to the information required under subsection (b) of this Section 1609, an Applicant for a Cannabis
17 Nursery permit shall also submit as part of its application:

18 (1) Copies of all documentation submitted to the State Licensing Authority in support of its
19 application for a license authorizing the operation of a Cannabis Nursery.

20 (2) All documentation and information set forth in subsection (c) of this Section 1609.

21 ~~(k)~~ Upon receipt of an application for a Medicinal Cannabis Retailer or Cannabis
22 Retailer permit, the Office of Cannabis Regulation shall post the name and location of the
23 proposed Cannabis Business on its website, and shall update its website with information
24 about the status of the application until such time as the application has been approved or
25 denied. The Office of Cannabis Regulation shall also cause a notice to be posted on the site of

1 the Premises associated with the aforementioned permit applications to notify neighbors that
2 a Cannabis Business Permit is sought at that location, if such notice is not otherwise required
3 by the Planning Code.

4
5 **SEC. 1615. ISSUANCE AND DENIAL OF CANNABIS BUSINESS PERMITS.**

6 * * * *

7 (d) **Mandatory Grounds for Denial.** No Cannabis Business Permit shall be issued
8 if the Director finds that:

9 * * * *

10 (3) The Applicant has ~~otherwise not fully complied with the provisions of this Article~~
11 ~~16~~ violated a provision of Article 16, and has failed to come into compliance with Article 16 within a
12 reasonable time, as determined by the Director of the Office of Cannabis Regulation, after receiving
13 notice of the violation from the Director.

14
15 **SEC. 1619. PROHIBITION ON ENTRY BY AND SALES TO UNDERAGE PERSONS;**
16 **PROHIBITION ON MISLEADING BUSINESS NAMES.**

17 * * * *

18 (c) **Misleading Business Names Prohibited.** It shall be a violation of this Article 16 for a
19 Permittee to assign any name to a Cannabis Retailer or Medicinal Cannabis Retailer, or to use any
20 name in connection with a Cannabis Retailer or Medicinal Cannabis Retailer, if the name is likely to
21 mislead members of the public into believing that the business is legally permitted to sell products to
22 minors, or is likely to entice minors to patronize the business.

23 (ed) **Positive Bona Fide Proof of Identity Required.** No Storefront Cannabis Retailer,
24 Cannabis Microbusiness, or Delivery-Only Cannabis Retailer may Sell Cannabis or Cannabis
25 Products to any Customer without first examining the Customer's Bona Fide Proof of Age and

1 Identity to confirm that the Customer is at least the minimum age under state law to purchase
2 and possess the Cannabis or Cannabis Product. Review of a Customer's Bona Fide Proof of
3 Age must be performed by an employee of the Permittee, in the presence of the prospective
4 Customer.

5 (~~de~~) Proof of Physician's Recommendation Required. No Storefront Cannabis
6 Retailer, Cannabis Microbusiness, or Delivery-Only Cannabis Retailer may Sell Medicinal
7 Cannabis or Medicinal Cannabis Products to any Customer without first examining verification
8 that the Customer possesses a valid Physician's Recommendation. Review of a Customer's
9 verification of Physician's Recommendation must be performed by an employee of the
10 Permittee, in the presence of the prospective Customer.

11
12 **SEC. 1626. CANNABIS DISTRIBUTORS.**

13 * * * *

14 (b) **Operating Standards.** In addition to the operating requirements set forth in
15 Section 1618 of this Article 16, a Cannabis Distributor shall comply with the following
16 operating standards:

17 * * * *

18 (3) If a Cannabis Distributor receives notice that any Cannabis or Cannabis Products
19 that are currently or were previously in the Cannabis Distributor's possession, and that were either
20 Cultivated or Manufactured by a Cannabis Business located in San Francisco or intended for possible
21 distribution or sale to a Cannabis Business located in San Francisco, have been tested and have failed
22 any requirements established by state regulation, the Cannabis Distributor shall notify the Department
23 of Public Health and the Office of Cannabis Regulation as soon as practicable, and no later than 48
24 hours after the Cannabis Distributor receives notice of those results. Such notification shall include, to
25 the extent available to the Cannabis Distributor, the name, State license number, and local Permit

1 number of the Manufacturer that provided the Cannabis to be tested, the test results, reason for failure,
2 and any applicable track and trace information.

3
4 **SEC. 1634. ADDITIONAL ADMINISTRATIVE ENFORCEMENT ORDERS.**

5 (a) **Order to Cease Operations Without Permit.** Upon a determination by the
6 Director that any Cannabis Business is operating without all valid, effective, and current
7 permits required by this Article 16, the Director shall issue an Order to Cease Operations
8 Without Permit, which shall be posted prominently on the Premises and mailed to the
9 Cannabis Business. Such Order shall state:

10 (1) The required permits which are lacking;

11 (2) That the Cannabis Business has 24 hours from the time of posting to
12 demonstrate to the Director's satisfaction that the Cannabis Business has the required valid,
13 effective, and current permits;

14 (3) If the Cannabis Business has not made such demonstration within 24 hours
15 of the time of posting, it must cease operations immediately.

16 * * * *

17
18 Section 4. Effective Date. This ordinance shall become effective 30 days after
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
20 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor's veto of the ordinance.

22
23 Section 5. Scope of Ordinance. Except as stated in Section 3 of this ordinance, in
24 enacting this ordinance, the Board of Supervisors intends to amend only those words,
25 phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts,

1 diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this
2 ordinance as additions, deletions, Board amendment additions, and Board amendment
3 deletions in accordance with the "Note" that appears under the official title of the ordinance.
4

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

7 By:


8 SARAH A. CROWLEY
9 Deputy City Attorney

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