

BOARD of SUPERVISORS



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MEMORANDUM

TO: Barbara A. Garcia, Director, Department of Public Health

FROM: *ll*
bsr Derek Evans, Clerk, Rules Committee
Board of Supervisors

DATE: March 22, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Sheehy on March 14, 2017:

File No. 170275

Ordinance amending the Administrative Code to establish a Cannabis Commission and Cannabis Department.

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: derek.evans@sfgov.org.

c: Greg Wagner, Department of Public Health
Colleen Chawla, Department of Public Health

1 [Administrative Code - Establishing a Cannabis Commission and Cannabis Department]

2
3 **Ordinance amending the Administrative Code to establish a Cannabis Commission and**
4 **Cannabis Department.**

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

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

13 Section 1. Findings.

14 On November 8, 2016, the voters of the State of California approved Proposition 64,
15 enacting the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). AUMA
16 legalizes the non-medical use of cannabis by adults, and creates a state regulatory and
17 licensing system governing the commercial cultivation, testing, distribution, and sale of non-
18 medical cannabis, and the manufacture of non-medical cannabis products.

19 Under Proposition 64, localities retain authority to regulate the non-medical cannabis
20 industry, including but not limited to the authority to prohibit commercial activities relating to
21 non-medical cannabis entirely, or to authorize such activities and impose licensing
22 requirements and land use restrictions. Businesses that apply for state permits to engage in
23 commercial cannabis activities will need to demonstrate that the issuance of a state permit
24 would not violate the provisions of any local ordinance or regulation.

25 In 2015, in anticipation of the legalization of cannabis, the Board of Supervisors created
the Cannabis State Legalization Task Force (the “Task Force”) of the City and County of San

1 Francisco. (Ordinance No. 115-15; Admin. Code Ch. 5, Art. II.) The purpose of the Task
2 Force is to advise the Board of Supervisors, the Mayor, and other City departments on
3 matters relating to the potential legalization of cannabis so that the City's policymakers are
4 fully prepared to address policy questions, through legislation, administrative actions, and
5 otherwise, following the adoption of a State law.

6 In January 2017, the Task Force presented preliminary recommendations to the Board
7 of Supervisors, including a recommendation that the Board consider new regulatory oversight
8 structures for non-medical cannabis regulation, such as the establishment of a "standalone"
9 cannabis department. A copy of its report, entitled "San Francisco State Cannabis
10 Legalization Task Force Year I Report and Recommendations," is on file with the Clerk of the
11 Board of Supervisors in File No. 170036.

12
13 Section 2. The Administrative Code is hereby amended by adding to Chapter 2A,
14 Article XXVI, entitled "Non-Medical Cannabis Regulation," consisting of Sections 2A.420-
15 2A.423, to read as follows:

16 **ARTICLE XXVI: NON-MEDICAL CANNABIS REGULATION**

17 **SEC. 2A.420. CANNABIS COMMISSION.**

18 **(a) Establishment.** *There is hereby established a San Francisco Cannabis Commission*
19 *("Commission"). The Commission shall consist of seven members appointed in accordance with*
20 *Charter Section 3.100.*

21 **(b) Duties and functions.** *In addition to the powers and duties set forth in Sections 4.102, 4.103,*
22 *and 4.104 of the Charter, the Commission shall conduct hearings upon applications for permits related*
23 *to commercial non-medical cannabis businesses, and issue, deny, condition, suspend, or revoke such*
24 *permits in accordance with applicable laws and regulations. The Commission may authorize the*
25 *Director of the Department of Cannabis, or his or her designee, to rule upon certain of such*

1 applications, provided that any permit applicant has a right to appeal the Department's ruling to the
2 Commission, within a reasonable time frame set by the Commission. The final decision of the
3 Commission regarding a permit may be appealed to the Board of Appeals in the manner prescribed in
4 Article 1 of the San Francisco Business and Tax Regulations Code.

5 The Commission may impose reasonable conditions upon the issuance or renewal of non-
6 medical cannabis business permits, consistent with applicable law and regulations, for the location and
7 activities for which a permit is sought.

8 The Commission shall further coordinate with all relevant City departments, boards, and
9 commissions for the conduct of any inspection or investigation necessary or appropriate for the full and
10 fair consideration of applications for the issuance or renewal of permits under this Article XXVI. City
11 departments, boards and commissions shall cooperate with the Commission.

12 **SEC. 2A.421. DEPARTMENT OF CANNABIS.**

13 **(a) Establishment.** There is hereby created a Department of Cannabis ("Department"). In
14 accordance with Charter Sections 3.100(19) and 4.102(5), the Mayor shall appoint a Director who
15 shall serve as department head and appointing officer for the Department. The Department shall
16 include such officers and employees as are authorized pursuant to the budgetary and fiscal provisions
17 of the Charter.

18 **(b) Duties and functions.** Under the supervision and direction of the Director, the Department
19 of Cannabis shall oversee the implementation of laws and regulations relating to non-medical
20 cannabis.

21 **(c) Cooperation among departments.** In performing its respective functions, the Department of
22 Cannabis shall cooperate with, and receive cooperation from, all City departments, boards, and
23 commissions whose work pertains in some manner to regulation of cannabis.

1 **SEC. 2A.422. EXCLUSIONS.**

2 Nothing in this Article XXVI is intended to limit or abridge the authority of the Department of
3 Public Health, the Planning Department, or any other City department, with respect to the regulation
4 of “medical cannabis dispensaries,” as defined in Article 33 of the Health Code. Nor is anything in this
5 Article intended to limit or abridge the permitting, licensing, or inspection authority of any other City
6 department over commercial businesses or real property.

7 **SEC. 2A.423. UNDERTAKING FOR THE GENERAL WELFARE.**

8 In enacting and implementing this Article XXVI, the City is assuming an undertaking only to
9 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
10 obligation for breach of which it is liable in money damages to any person who claims that such breach
11 proximately caused injury.

12
13 Section 3. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor’s veto of the ordinance.

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

21 By: 
22 NEHA GUPTA
23 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Establishing a Cannabis Commission and Cannabis Department]

Ordinance amending the Administrative Code to establish a Cannabis Commission and Cannabis Department.

Existing Law

On November 8, 2016, the voters of the State of California approved Proposition 64, enacting the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). AUMA legalizes the non-medical use of cannabis by adults, and creates a state regulatory and licensing system governing the commercial cultivation, testing, distribution, and sale of non-medical cannabis, and the manufacture of non-medical cannabis products.

Under Proposition 64, localities retain authority to regulate the non-medical cannabis industry, including but not limited to the authority to prohibit commercial activities relating to non-medical cannabis entirely, or to authorize such activities, and impose licensing requirements and land use restrictions.

Article 33 of the San Francisco Health Code regulates medical cannabis, and authorizes the San Francisco Department of Public Health to oversee the permitting of medical cannabis dispensaries. Currently, there is no City law that regulates non-medical cannabis, or that authorizes any department or commission to oversee the permitting of businesses that engage in commercial activities relating to non-medical cannabis.

Amendments to Current Law

This ordinance will create a Department of Cannabis, with authority to oversee the implementation of laws and regulations relating to non-medical cannabis and to coordinate with other City departments as necessary. The proposal specifies that it does not intend to limit or abridge the current authority of the Public Health Department, the Planning Department, or any other City department, to regulate medical cannabis dispensaries, or the authority of any other City department to regulate commercial businesses or real property in San Francisco.

This proposal will also establish a new Cannabis Commission, consisting of seven members appointed by the Mayor, which will have the authority to grant, withhold, condition, revoke or deny the permits of commercial non-medical cannabis businesses in San Francisco.