

1 [Planning Code - Conversion of Medical Cannabis Dispensary Uses to Cannabis Retail Uses]

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3 **Ordinance amending the Planning Code to allow Medical Cannabis Dispensaries**

4 **(MCDs) with approvals from the Planning Department for a Medical Cannabis**

5 **Dispensary Use as of January 5, 2018, to apply to convert to Cannabis Retail Uses**

6 **under the same conditions as MCDs that held valid final permits from Department of**

7 **Public Health as of January 5, 2018; exempting all such converted Cannabis Retail**

8 **Uses from otherwise applicable Conditional Use Authorization requirements; clarifying**

9 **that such Cannabis Retail Uses are not exempted from any minimum radius that is**

10 **required by a State licensing authority for distance between a Cannabis Retailer and an**

11 **existing school, day care center or youth center; allowing Equity Program or Equity**

12 **Incubator Applicants who have MCD applications pending at the Planning Department**

13 **to apply to convert to Cannabis Retail Uses; exempting such Cannabis Retail Uses**

14 **from the minimum radius requirements between those establishments and existing**

15 **Cannabis Retailers and Medical Cannabis Retailers; affirming the Planning**

16 **Department’s determination under the California Environmental Quality Act; making**

17 **findings of consistency with the General Plan, and the eight priority policies of**

18 **Planning Code, Section 101.1; and making public necessity, convenience, and welfare**

19 **findings under Planning Code, Section 302.**

20 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.

21 **Additions to Codes** are in *single-underline italics Times New Roman font*.

22 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.

23 **Board amendment additions** are in double-underlined Arial font.

24 **Board amendment deletions** are in ~~strikethrough Arial font~~.

25 **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:

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Section 1.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 181061 and is incorporated herein by reference. The Board affirms this determination.

(b) On November 15, 2018, the Planning Commission, in Resolution No. 20340, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 181061, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that these Planning Code Amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 20340, and the Board incorporates such reasons herein by reference.

Section 2. Article 1.7 of the Planning Code is hereby amended by revising Section 190, to read as follows:

SEC. 190. CONVERSION OF MEDICAL CANNABIS DISPENSARIES TO CANNABIS RETAIL ESTABLISHMENTS.

(a) Conversion of MCDs with Planning Commission Approval to Cannabis Retail Uses.

1 (1) An establishment *may convert from the prior authorized Use at the property to a*
2 *Cannabis Retail Use by obtaining a building permit authorizing the change of Use, if the establishment*
3 *(to be termed a “Grandfathered MCD”) satisfies one of the following three criteria: ~~that either~~*
4 _____ *(A) holds a valid final permit from the Department of Public Health to*
5 *operate as a Medical Cannabis Dispensary, pursuant to Section 3307 of the Health Code, as of ~~the~~*
6 *effective date of the ordinance in Board File No. 171042 January 5, 2018;*
7 _____ *(B) holds an approval for a Medical Cannabis Dispensary Use from the*
8 *Planning Department as of January 5, 2018; or ~~that~~*
9 _____ *(C) submitted a complete application for ~~such~~ a permit from the Department*
10 *of Public Health to operate as a Medical Cannabis Dispensary by July 20, 2017, and receives ~~such~~*
11 *a final permit from the Department of Public Health (“Grandfathered MCD”). *may convert to a**
12 *Cannabis Retail Use by obtaining a building permit authorizing the change of use, as set forth below.*
13 *Such permits are subject to neighborhood notification pursuant to Section 312, regardless of zoning*
14 *district.*

15 **(b)** (2) A Grandfathered MCD converting to a Cannabis Retail Use pursuant to this
16 Section 190 is not subject to:

17 _____ *(A) a Conditional Use Authorization requirement for Cannabis Retail Uses in*
18 *the zoning district in which it is located; or*

19 _____ *(B) the locational restrictions for Cannabis Retail set forth in subsection*
20 *202.2(a), except that if a State licensing authority specifies a minimum radius from an existing*
21 *School, public or private, or from an existing day care center or youth center, that minimum*
22 *radius shall apply.*

23 _____ *(3) A Grandfathered MCD is subject to all other Planning Code requirements,*
24 *including but not limited to the neighborhood notification requirement of Section 312.*

1 ~~(c) In order for a Grandfathered MCD to convert to a Cannabis Retail Use pursuant to this~~
2 ~~Section 190, a completed application for the change of use must be submitted to the Department of~~
3 ~~Building Inspection no later than March 31, 2018, and a first approval by the Planning Department or~~
4 ~~Planning Commission must be received on or before December 31, 2019. An application will be~~
5 ~~deemed to have received its first approval from the Planning Department or Planning Commission~~
6 ~~when that body issues its decision, regardless of whether any appeal or lawsuit is subsequently filed~~
7 ~~challenging any City approval related to the application.~~

8 **(b) Establishment of Cannabis Retail Uses at Sites with MCD Applications Pending Before**
9 **the Planning Commission.**

10 (1) For the purposes of this subsection (b), a Pending MCD Applicant is an applicant
11 that submitted a complete application to the Department of Public Health to operate a Medical
12 Cannabis Dispensary by July 20, 2017, but that did not receive a permit or authorization from the
13 Planning Department to operate such Use as of January 5, 2018, and that qualifies as either an Equity
14 Applicant or an Equity Incubator pursuant to Section 1604 of the Police Code.

15 (2) A Pending MCD Applicant may establish a Cannabis Retail Use at the property
16 where the application to operate a Medical Cannabis Dispensary was proposed by obtaining building
17 permit authorization for the change of use.

18 (3) Except as specified in this subsection (b), a Pending MCD Applicant that obtains a
19 change of use permit for a Cannabis Retail Use is subject to all Planning Code requirements, including
20 but not limited to the neighborhood notification requirement set forth in Section 312 and Conditional
21 Use Authorization if required for a Cannabis Retail Use by the zoning district in which the property is
22 located.

23 (4) A Pending MCD Applicant is not subject to the minimum radius requirement
24 between Cannabis Retailers or between a Cannabis Retailer and a Medicinal Cannabis Retailer, as set
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1 forth in subsection 202.2(a), but is subject to all other locational requirements for Cannabis Retail set
2 forth in subsection 202.2(a).

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4 (~~c~~) All other applications for a change of use from a Medical Cannabis Dispensary
5 Use to a Cannabis Retail Use shall be subject to the zoning controls for the district in which
6 the Medical Cannabis Dispensary is located.

7 (~~d~~e) This Section 190 shall expire by operation of law on January 1, 20201. Upon its
8 expiration, the City Attorney shall cause this Section 190 to be removed from the Planning
9 Code.

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

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16 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
17 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
18 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
19 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
20 additions, and Board amendment deletions in accordance with the "Note" that appears under
21 the official title of the ordinance.

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

24 By: _____
25 VICTORIA WONG
Deputy City Attorney

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