

LEGISLATIVE DIGEST

[Planning Code - Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses]

Ordinance amending the Planning Code to exempt certain existing gates, railings, and grillwork at Non-Residential uses from transparency requirements, subject to the provisions for noncomplying structures, and exempt Cannabis Retail uses from transparency requirements for gates, railings, and grillwork for a three-year period, and require removal of gates, railings, and grillwork installed pursuant to that exemption when a Cannabis Retail use's business permit becomes invalid or the business ceases to operate; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

Existing Law

Section 145.1(c)(7) of the Planning Code requires that in Neighborhood Commercial, Residential-Commercial, Commercial and Mixed Use Districts, storefront gates, railings and grillwork, including security gates, must be at least 75% open to perpendicular view.

Amendments to Current Law

This ordinance would exempt Cannabis Retail uses and certain existing gates, railings, or grillwork from the 75% transparency requirements of Section 145.1(c)(7).

The exemption for Cannabis Retail uses would expire three years after the effective date of the ordinance. During that three-year period, a Cannabis Retail use would be permitted to install gates, railings, or grillwork that are less than 75% open to perpendicular view, including features that are fully opaque, provided that such gates, railings, or grillwork are deployed only when the Cannabis Retail use is not open to the public for business. Any gates, railings, or grillwork installed pursuant to this exemption must be removed within the earliest of the following:

- (a) 90 days after the Cannabis Business Permit issued to the use pursuant to Article 16 of the Police Code is revoked or otherwise rendered invalid;
- (b) 90 days after the Cannabis Retail use ceases regular operation at the premises; or
- (c) 90 days after the Cannabis Retail use is abandoned or discontinued pursuant to either Section 178 or Section 183.

The removal requirements for Cannabis Retail would continue to apply after expiration of the exemption, and any building permit application to install gates, railings, or grillwork pursuant to the exemption must include a statement acknowledging the removal requirements.

The exemption for existing structures applies to any Non-Residential use that has not been discontinued or abandoned as of the effective date of the ordinance, and that has gates, railings, or grillwork in use prior to September 06, 2022, which are less than 75% open to perpendicular view, including features that are fully opaque. Such gates, railings, or grillwork will be deemed in compliance with the requirements of Section 145.1(c)(7), provided that they are deployed only when a business is not open to the public. The ordinance does not otherwise exempt a use from any required building permit. Existing gates, railings, and grillwork permitted by the ordinance will be treated as noncomplying structures for purposes of the restrictions on intensification, expansion, and relocation in Section 188(a), and the provisions for ordinary maintenance and minor repairs in Section 181(b).

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