**BOARD of SUPERVISORS**

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# M E M O R A N D U M

TO: Katy Tang, Director
**Small Business Commission, City Hall, Room 448**

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: March 25, 2026

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 260281**

**Ordinance amending the Health, Planning, Police, and Business and Tax Regulations Codes to establish a new permit type for cannabis cafés to be administered by the Office of Cannabis that will authorize the permittee to sell cannabis and cannabis products only for consumption on the premises of the café; exempt cannabis cafés from the prohibition on smoking in business establishments; eliminate the prohibition on establishments with a cannabis consumption permit requiring employees to enter a designated smoking room as a condition of employment; exempt cannabis cafés in certain circumstances from the 600-foot buffer rule that applies to cannabis retail establishments; restrict eligibility for cannabis café permits for one year to businesses that currently hold a cannabis storefront retailer permit or that have the same owners as such a business; require Equity Applicants that apply for a cannabis café permit to pay the $2,000 application fee, any permit amendment processing costs, and the $3,000 license fee for the first year of operation, associated with the cannabis café permit; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making public necessity, convenience, and welfare findings under Planning Code, Section 302.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:
Office of Chair Melgar and Supervisor Mandelman
Kerry Birnbach, Senior Policy Analyst/Commission Secretary

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**RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____**

**____ No Comment**

**____ Recommendation Attached**

_____
**Chairperson, Small Business Commission**

[Various Codes - Cannabis Cafés]

**Ordinance amending the Health, Planning, Police, and Business and Tax Regulations Codes to establish a new permit type for cannabis cafés to be administered by the Office of Cannabis that will authorize the permittee to sell cannabis and cannabis products only for consumption on the premises of the café; exempt cannabis cafés from the prohibition on smoking in business establishments; eliminate the prohibition on establishments with a cannabis consumption permit requiring employees to enter a designated smoking room as a condition of employment; exempt cannabis cafés in certain circumstances from the 600-foot buffer rule that applies to cannabis retail establishments; restrict eligibility for cannabis café permits for one year to businesses that currently hold a cannabis storefront retailer permit or that have the same owners as such a business; require Equity Applicants that apply for a cannabis café permit to pay the $2,000 application fee, any permit amendment processing costs, and the $3,000 license fee for the first year of operation, associated with the cannabis café permit; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making public necessity, convenience, and welfare findings under Planning Code, Section 302.**

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.

(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. ___ and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings [OR, the Planning Department determined] 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 [OR, this determination] as its own. A copy of said Resolution [OR determination] is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. _____, and the Board adopts such reasons as its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

Section 2. The Health Code is hereby amended by revising Sections 8A.2 and 8A.6 of Article 8A, and Section 1009.23 of Article 19F, to read as follows:

**ARTICLE 8A: CANNABIS CONSUMPTION PERMITS**

* * * *

**SEC. 8A.2. PERMITS FOR THE ON-SITE CONSUMPTION OF CANNABIS.**

It shall be unlawful to allow the Consumption of Cannabis or Cannabis Products on the Premises of a commercial business without obtaining and maintaining:

(a) A permit therefor issued by the Department of Public Health; and

(b) A Medicinal Cannabis Retailer, Cannabis Retailer, *Cannabis Café,* or Cannabis Microbusiness permit issued by the Office of Cannabis; and

(c) A State Cannabis License.

**SEC. 8A.6. OPERATING STANDARDS.**

(a) No Permittee shall allow the on-site Consumption of Cannabis or Cannabis Products in a manner inconsistent with any permit condition imposed by the Director, or inconsistent with any rules, regulations, or guidelines promulgated by the Director under Section 8A.8.

* * * *

~~*(j) A Permittee with a Cannabis Smoking permit may not require employees to enter the Designated Smoking Room as a condition of their employment.*~~

* * * *

**ARTICLE 19F: PROHIBITING SMOKING IN ENCLOSED AREAS, CERTAIN UNENCLOSED AREAS, AND SPORTS STADIUMS**

* * * *

**SEC. 1009.23. EXCEPTIONS.**

The following places shall not be subject to this Article 19F:

* * * *

(f) Medicinal Cannabis Retailers, Cannabis Microbusinesses, ~~*and*~~ Cannabis Retailers*, and Cannabis Cafés, as those terms are defined in Section 1602 of the Police Code,* that have received and maintain:

(1) A Cannabis Business Permit issued by the Director of the Office of Cannabis under Article 16 of the Police Code; and

(2) A Cannabis Consumption Permit that authorizes the smoking of cannabis, issued by the Director of Health under Article 8A of the Health Code~~*, unless the smoking of cannabis is authorized under subsection (g) of Section 8A.4, pending the approval or denial of an application for such permit*~~.

Section 3. The Planning Code is hereby amended by revising Section 102 of Article 1, and Section 202.2 of Article 2 to read as follows:

**ARTICLE 1: GENERAL ZONING PROVISIONS**

*** * * ***

**SEC. 102. DEFINITIONS.**

* * * *

**C**

***Cannabis Retail.*** A Retail Sales and Service Use that sells or otherwise provides cannabis and cannabis-related products for adult use *with or without consumption of said products on site. This use* ~~*and that*~~ may also include the sale or provision of cannabis for medicinal use. A Cannabis Retail establishment may only be operated by the holder of (a) a valid license from the State of California (License Type 10—Retailer, as defined in California Business and Professions Code, Division 10) and (b) a valid permit from the City's Office of Cannabis. This use is subject to operating and location restrictions set forth in Section 202.2(a).

* * * *

**ARTICLE 2: USE DISTRICTS**

* * * *

**SEC. 202.2. LOCATION AND OPERATING CONDITIONS.**

(a) Retail Sales and Service Uses. The Retail Sales and Service Uses listed below shall be subject to the corresponding conditions:

* * * *

(5) Cannabis Retail. A Cannabis Retail establishment must meet all of the following conditions:

(A) A Cannabis Retail establishment must apply for a permit from the Office of Cannabis pursuant to Article 16 of the Police Code prior to submitting an application to the Planning Department.

(B) The parcel containing the Cannabis Retail Use shall not be located within a 600-foot radius of a parcel containing an existing School, public or private, unless a State licensing authority specifies a different radius, in which case that different radius shall apply. In addition, the parcel containing the Cannabis Retail Use shall not be located within a 600-foot radius of a parcel for which a valid permit from the City's Office of Cannabis for a Cannabis Retailer or a Medicinal Cannabis Retailer has been issued, except that*: (i)* a Cannabis Retail Use may be located in the same place of business as one or more other establishments holding valid permits from the City's Office of Cannabis to operate as Cannabis Retailers or Medicinal Cannabis Retailers, where the place of business contains a minimum of 350 square feet per Cannabis Retail or Medical Cannabis Dispensary Use*; and (ii) a Cannabis Retail Use with a Cannabis Café permit issued by the Office of Cannabis may be located within 600 feet of another Cannabis Retail Use,* provided that *any* such locations are permitted by state law. There shall be no minimum radius from a Cannabis Retail Use to an existing day care center or youth center unless a State licensing authority specifies a minimum radius, in which case that minimum radius shall apply.

(C) Cannabis may be consumed or smoked on site pursuant to authorization by the Department of Public Health as applicable.

Section 4. Article 16 of the Police Code is hereby amended by revising Sections 1602, 1606, 1607, 1608, 1609, 1613, 1615, 1618, 1619, 1620, and 1630, and adding Section 1628.5, to read as follows:

**ARTICLE 16: REGULATION OF CANNABIS**

* * * *

**SEC. 1602. DEFINITIONS.**

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

* * * *

"Cannabis Business" means any of the following: *Cannabis Café,* Cannabis Cultivation Facility, Cannabis Manufacturing Facility, Cannabis Testing Facility, Cannabis Distributor, Cannabis Microbusiness, Medicinal Cannabis Retailer, Cannabis Retailer, or Delivery-Only Cannabis Retailer.

"Cannabis Business Permit" means a permit to operate a specific type of Cannabis Business issued under this Article 16.

"Cannabis Business Registration Period" means the period of time during which Persons wishing to apply for Cannabis Business Permits may register with the Office of Cannabis, as set forth in Section 1605 of this Article 16.

*"Cannabis Café" means a fixed place of business where Cannabis and/or Cannabis Products are Sold to Customers exclusively for the purpose of Consumption on the premises.*

* * * *

"Cannabis Retailer" means a fixed place of business where Cannabis and/or Cannabis

Products are Sold to Customers, *but does not include a Cannabis Café*.

* * * *

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

* * * *

(e) As of the effective date of the ordinance in Board File No. 200144 enacting this subsection (e), the Director shall decline to accept for processing any new applications for Cannabis Business Permits under this Article 16 in the following categories: Cannabis Retailer, Storefront Cannabis Retailer, Delivery-Only Cannabis Retailer, Medicinal Cannabis Retailer, and Cannabis Microbusiness (to the extent relating to retail activity). No later than June 30, 2027, the Controller shall submit to the Board of Supervisors a report that analyzes various impacts of the moratorium on new applications for retail-related Cannabis Business Permits, including its financial impacts on the City and the City's cannabis industry, operational impacts on the Office of Cannabis, and impacts on City neighborhoods.

*(f) **Temporary Eligibility Criteria for Cannabis Café Permits**.*

*(1) For one year following the effective date of the ordinance in Board File No. _____, the Director may only accept for processing or issue a permit in response to an application for a Cannabis Café permit that meets all of the following criteria:*

*(A) The permit Applicant either holds a valid Storefront Cannabis Retailer permit or has the same Owners as a separate entity, identified by name and permit number in the application, that holds a valid Storefront Cannabis Retailer permit. In either case, the Storefront Cannabis Retailer permittee shall be referred to as the "Associated Storefront Cannabis Retailer Permittee."*

*(B) If the Associated Storefront Cannabis Retailer Permittee is not the Cannabis Café permit Applicant and has an Equity Applicant as an Owner, the application must document that*

*the Equity Applicant is an Owner of the entity seeking the Cannabis Café permit and that the Equity Applicant's ownership interest in the entity seeking the Cannabis Café permit is equal to or greater than the lesser of: (i) 20%; or (ii) the Equity Applicant's percentage ownership in the Associated Storefront Cannabis Retailer Permittee.*

*(C) The application's Associated Storefront Cannabis Retailer Permittee is not connected, within the meaning of subsection (f)(1)(A), with any other Cannabis Café permittee or pending Cannabis Café permit application. Notwithstanding the foregoing, prior to permit issuance, the Director may, for good cause, allow a Cannabis Café permit applicant to withdraw the application and submit a replacement application for a different location while maintaining their place in the processing queue. In no event, however, shall the Director issue a Cannabis Café permit to an Applicant whose Associated Storefront Cannabis Retailer Permittee is already associated with a current Cannabis Café permittee within the meaning of subsection (f)(1)(A).*

*(2) One year after the effective date of the ordinance in Board File No. _____ , the City Attorney may cause this subsection (f) to be removed from the Police Code.*

**SEC. 1607. CANNABIS BUSINESS PERMITS.**

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

(1) Cannabis Cultivation Facility;

(2) Cannabis Manufacturing Facility;

(3) Cannabis Testing Facility;

(4) Cannabis Distributor;

(5) Cannabis Microbusiness;

(6) Medicinal Cannabis Retailer;

(7) Cannabis Retailer;

(8) Delivery-Only Cannabis Retailer; ~~*and*~~

(9) Cannabis Nursery~~.~~*; and*

*(10) Cannabis Café.*

**SEC. 1608. TRANSFER OF PERMIT; PORTABILITY OF PERMIT; SALE OF CANNABIS BUSINESS; CHANGE IN OWNERSHIP; INTERIM CANNABIS BUSINESS PERMITS.**

* * * *

(c) Ownership; Changes in Ownership; Changes in Form or Structure.

* * * *

(5) Notwithstanding any other provision of this subsection (c), prior to the award of any Cannabis Business Permit, permanent or temporary, and for five years following the date on which the Director has acknowledged receipt of an application for a Cannabis Business Permit from a particular Applicant or Permittee, an aggregate ownership interest of 50% or more in that Applicant or Permittee may not be transferred to any Person or combination of Persons who were not Owners of the Permittee at the time that a Cannabis Business Permit was first awarded to that Applicant or Permittee under this Article 16. Nothing in this subsection (c)(5) shall prohibit a holder of a Temporary Cannabis Business Permit from transferring an aggregate ownership interest of 50% or more in the Permittee prior to the award of a permanent Cannabis Business Permit to that Permittee after five years have passed from the earliest date on which the Director acknowledged receipt of an application for a Cannabis Business Permit, whether temporary or permanent, from that Permittee. In the event that, prior to the award of a Cannabis Business Permit or prior to five years after the date on which the Director acknowledged receipt of the application for a Cannabis Business Permit from that Permittee, an aggregate ownership interest of 50% or more in a Permittee is transferred to any Person or combination of Persons who were not Owners of the Permittee at

the time that a Cannabis Business Permit was awarded, in violation of this subsection (c)(5), and the Permittee fails to undo the prohibited ownership transfer within six months of receiving notification of such violation from the Director, the Permittee shall promptly surrender the permit to the Director. This restriction shall not apply to any testamentary or intestate transfer of ownership triggered by an Owner's death. This obligation is not dependent on the Director's requesting the surrender, but arises by operation of law six months following notice from the Director that the sale of the Cannabis Business has violated the transfer restriction in this subsection (c)(5). If the Permittee fails to surrender the permit to the Director, the Director may, after giving the Permittee notice by mail and electronically of the proposed action and an opportunity to respond, revoke the permit. *Where a permittee has applied for both a Cannabis Café permit and a Storefront Cannabis Retailer permit, the "earliest date on which the Director acknowledged receipt of an application for a Cannabis Business Permit" shall be calculated with reference to the application for the Storefront Cannabis Retailer Permit.*

**SEC. 1609. PERMIT APPLICATIONS.**

(a) **Application and Fee Required**. Every Applicant for a Cannabis Business Permit shall:

(1) File an application with the Director upon a form provided by the Director;

(2) Provide such information as may be required by this Article 16 and any regulations promulgated thereto; and

(3) Pay a non-refundable application fee, unless the Applicant is eligible for a fee waiver or reduction, as authorized by ordinance.

(b) **Information Required of All Applicants for Cannabis Business Permits**. The application form for all Cannabis Business Permit Applicants shall require the Applicant to provide the following information and documentation:

* * * *

*(k) **Additional Information Required of Applicants for Cannabis Café Permits**. In addition to the information required under subsection (b) of this Section 1609, an Applicant for a Cannabis Café permit shall also submit as part of its application:*

*(1) Copies of all documentation submitted to the State Licensing Authority in support of its application for a state storefront retailer license.*

*(2) A Cannabis Café Operations Plan containing such information as may be required by the Director, including but not limited to:*

*(A) A description of the methods to be used to secure against theft or misappropriation of Cannabis Products on site, and security measures that will be implemented to ensure the safety of the Retailer's employees and the public; and*

*(B) A description of where and when shipments of Cannabis and Cannabis Products will be received;*

*(3) Confirmation that the Applicant intends to apply for a Cannabis Consumption permit, as set forth in Article 8A of the Health Code, and a description of the type(s) of Consumption that the Applicant proposes to allow on the Premises.*

*(4) A description of how the Applicant will support the needs of Customers who qualify under California Health and Safety Code Sections 11362.7 et seq. to use Medicinal Cannabis, including but not limited to providing space where Customers may speak confidentially with employees of the Cannabis Business, and ensuring a sufficient supply of Medicinal Cannabis and Medicinal Cannabis Products;*

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

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

~~(k)~~ *(l)* Upon receipt of an application for a *Cannabis Café,* Medicinal Cannabis Retailer, or *Storefront* Cannabis Retailer permit, the Office of Cannabis shall post the name and location of the proposed Cannabis Business on its website, and shall update its website with information about the status of the application until such time as the application has been approved or denied. The Office of Cannabis shall also cause a notice to be posted on the site of the Premises associated with the aforementioned permit applications to notify neighbors that a Cannabis Business Permit is sought at that location, if such notice is not otherwise required by the Planning Code.

**SEC. 1613. LIMITS ON PERMITS.**

(a) A Permittee that holds a Cannabis Testing Facility permit shall be ineligible for and may not be issued a permit to operate any other type of Commercial Cannabis Activity permitted by the City. A Permittee that holds a Cannabis Business Permit other than a Cannabis Testing Facility permit, shall be ineligible for and may not be issued a permit to operate a Cannabis Testing Facility.

(b) No permit to operate as a Storefront Cannabis Retailer shall be granted if any individual holding a legal or beneficial interest in the proposed Storefront Cannabis Retailer already holds a legal or beneficial interest in four or more existing Storefront Cannabis Retailers that hold permits under this Article 16, except that an interest held in a Storefront Cannabis Retailer shall not be counted towards this limit if the Storefront Cannabis Retailer has received approval from the Planning Commission, following a discretionary review

hearing, as of the effective date of the ordinance in Board File No. 180912. If an application for a permit, under this Article 16, to operate as a Storefront Cannabis Retailer is pending for approval before the Planning Commission, and if the approval of that permit would cause an individual to hold a legal or beneficial interest in four or more existing Storefront Cannabis Retailers (other than Storefront Cannabis Retailers that, as of the effective date of the ordinance in Board File No. 180912, have received approval from the Planning Commission following a discretionary review hearing), the Office of Cannabis shall place on hold any additional applications for a permit on behalf of a Storefront Cannabis Retailer in which that individual would hold a legal or beneficial interest in a proposed Storefront Cannabis Retailer. For purposes of this subsection (b), the circumstances in which an individual holds a legal or beneficial interest in a Storefront Cannabis Retailer shall include (but need not be limited to) any circumstance in which an individual holds a legal or beneficial interest in any Person holding a legal or beneficial interest in the Storefront Cannabis Retailer.

*(c) No application for a permit to operate a Cannabis Café shall be accepted if any individual holding a legal or beneficial interest in the proposed Cannabis Café business already holds a legal or beneficial interest in four or more businesses that either hold valid Cannabis Café permits or have pending applications for Cannabis Café permits under this Article 16. For purposes of this subsection, a legal or beneficial interest in a business may include a legal or beneficial interest in a separate entity that holds a legal or beneficial interest in the permittee or Applicant.*

(~~c~~d) The Controller shall track the number of permits that are awarded pursuant to this Article 16. ~~*No later than September 30, 2019, the Controller shall submit to the Board of Supervisors a report that makes recommendations as to whether the issuance of Cannabis Business Permits should be subject to any numerical, geographical, or other limits.*~~

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

* * * *

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

* * * *

~~(~~(6)~~)~~ The Premises are materially different from the diagram of the Premises submitted by the Applicant.

* * * *

(12) The Planning Department or Planning Commission determines that the Applicant engaged in Commercial Cannabis Activities in a location that was not authorized by or consistent with the Planning Code.

*(13) The Applicant is a Cannabis Café permit Applicant that the Planning Department has determined would be located within 600 feet of a Storefront Cannabis Retailer, except that if a Cannabis Café permit Applicant's location is within 600 feet of a Storefront Cannabis Retailer with which the Cannabis Café permit Applicant shares all of the same Owners (the "Associated Storefront Cannabis Retailer"), that Applicant's location within 600 feet of the Associated Storefront Cannabis Retailer or another Storefront Cannabis Retailer shall not be grounds for denial of the Applicant's Cannabis Café permit, so long as no other Cannabis Cafés sharing all of the same Owners are located within 600 feet of the Associated Storefront Cannabis Retailer.*

* * * *

**SEC. 1618. ELIGIBILITY AND OPERATING STANDARDS APPLICABLE TO ALL CANNABIS BUSINESSES.**

* * * *

(aa) It shall be a violation of this Article 16 for any Cannabis Business to engage in

the nonsale distribution of Cannabis or Cannabis Products, or to permit the nonsale distribution of Cannabis or Cannabis Products by any Person on the Premises of the Cannabis Business, except as authorized by state law. Notwithstanding the forgoing, and as authorized by state law, a Storefront Cannabis Retailer *or Cannabis Café* may operate a Compassion Program in which it provides Medicinal Cannabis and/or Medicinal Cannabis Products at no or nominal cost to low-income individuals who are qualified under California Health and Safety Code Sections 11362.7 et seq. to use Medicinal Cannabis. In addition, Cannabis Cultivation Facilities and Cannabis Manufacturing Facilities may provide Medicinal Cannabis and/or Medicinal Cannabis Products at no or nominal cost to Storefront Cannabis Retailers *and Cannabis Cafés*, for distribution through a Compassion Program. The Director shall adopt rules, regulations and guidelines applicable to Compassion Programs, including, but not limited to: eligibility criteria applicable to persons who may receive Cannabis at no or low cost; and recordkeeping requirements. For purposes of this subsection (aa), "nonsale distribution" means to give Cannabis or Cannabis Products to the general public or some segment thereof at no cost, or at nominal cost, or to give coupons, coupon offers, or rebate offers for Cannabis or Cannabis Products to the general public or some segment thereof at no cost or at nominal cost.

* * * *

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

(a) **Entry to Premises Prohibited**. It shall be a violation of this Article 16 for a Permittee to allow on the Premises any person under 21 years of age, provided however that a Medicinal Cannabis Retailer may allow entry to a person 18 years of age or older who possesses a valid Physician's Recommendation.

(b) **Prohibited Sales**.

(1) It shall be a violation of this Article 16 for any *Cannabis Café,* Storefront Cannabis Retailer, Cannabis Microbusiness, or Delivery-Only Cannabis Retailer to Sell, furnish, give, or cause to be Sold, any Adult Use Cannabis or Adult Use Cannabis Products to any person under the age of 21.

(2) It shall be a violation of this Article 16 for any *Cannabis Café,* Storefront Cannabis Retailer, Cannabis Microbusiness, or Delivery-Only Cannabis Retailer to Sell, furnish, give, or cause to be Sold, any Medicinal Cannabis or Medicinal Cannabis Products to any person who is under the age of 18 and/or who does not possess a valid Physician's Recommendation.

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

(d) **Positive Bona Fide Proof of Identity Required**. No *Cannabis Café,* Storefront Cannabis Retailer, Cannabis Microbusiness, or Delivery-Only Cannabis Retailer may Sell Cannabis or Cannabis Products to any Customer without first examining the Customer's Bona Fide Proof of Age and Identity to confirm that the Customer is at least the minimum age under state law to purchase and possess the Cannabis or Cannabis Product. Review of a Customer's Bona Fide Proof of Age must be performed by an employee of the Permittee, in the presence of the prospective Customer.

**SEC. 1620. CONSUMPTION OF CANNABIS AND CANNABIS PRODUCTS ON THE**

**PREMISES OF CANNABIS BUSINESSES.**

(a) The Consumption of Cannabis and Cannabis Products is prohibited on the Premises of all Cannabis Manufacturing Facilities, Cannabis Cultivation Facilities, Cannabis Testing Facilities, Cannabis Distributors, and Delivery-Only Cannabis Retailers.

(b) The Consumption of Cannabis Products is not prohibited on the Premises of *Cannabis Cafés,* Medicinal Cannabis Retailers, Cannabis Retailers, and Cannabis Microbusiness, provided, however, that all of the following conditions are present:

(1) The Cannabis Business has received and maintained a valid Cannabis Consumption Permit from the Department of Public Health, as set forth in Article 8A of the Health Code, authorizing onsite Consumption of Cannabis Products;

(2) Access to the area where the Consumption of Cannabis Products is allowed is restricted to persons 21 years of age and older, or persons 18 years of age and older, if the Permitted Businesses is authorized to Sell Medicinal Cannabis and Medicinal Cannabis Products;

(3) Cannabis Consumption is not visible from any public place or nonage-restricted area; and

(4) Sale and Consumption of alcohol or Tobacco Products are not allowed on the Premises.

* * * *

***SEC. 1628.5. CANNABIS CAFÉS.***

*(a) **Authorized Activities**. A Cannabis Café permit authorizes the Permittee to engage in the retail Sale of both Medicinal and Adult Use Cannabis and Cannabis Products to Customers. A Cannabis Café permit does not authorize the Permittee to engage in the Delivery of Cannabis or Cannabis Products to Customers.*

*(b) **Operating Standards**. In addition to the operating requirements set forth in Sections 1618, a Cannabis Café shall comply with the following operating requirements:*

*(1) A Cannabis Café must be operated from a fixed place of business. It may not be operated out of a bus, truck, car, van, or any other mobile location or location that is capable of being mobile.*

*(2) A Cannabis Café shall post staff at the point of entry to the Premises to confirm that all Customers who enter are not underage, as set forth in Section 1619 of this Article 16.*

*(3) A Cannabis Café must make available to Customers a fact sheet relating to safe Consumption of Cannabis and Cannabis Products, to be produced by the Department of Public Health.*

*(4) A Cannabis Café shall not employ physicians for the purpose of recommending Medicinal Cannabis to Customers and shall not enter into any agreements with physicians for such purpose or with a third party that employs physicians for such purpose.*

*(5) A Cannabis Café may Sell Medicinal or Adult Use Cannabis or Cannabis Products to Customers for Consumption on the Premises subject to the following limitations:*

*(A) A Cannabis Café shall only Sell Cannabis or Cannabis Products to Customers for Consumption on the Premises. All menus and other listings of products for sale at a Cannabis Café shall include in a font that is bolded, underlined, and equal to or larger than the font used for product listings a statement that all products are only for Consumption on the Premises and may not be taken off the Premises.*

*(B) A Cannabis Café may only Sell Cannabis or Cannabis Products that are approved for Consumption on the Premises under the Cannabis Café's Cannabis Consumption Permit.*

*(C) A Cannabis Café may not Sell in a single business day Cannabis or Cannabis Products to a Customer in a quantity that exceeds the state legal limit for sale of non-concentrated Adult Use Cannabis or concentrated Adult Use Cannabis Products. A Cannabis Café may not Sell more than eight ounces of Medicinal Cannabis to a Customer in a single business day unless*

*the Customer provides a physician's recommendation for a greater amount. The Director may adopt regulations to further limit the amount of Cannabis or Cannabis Products, including Medicinal Cannabis, that may be sold to a Customer in a single business day.*

*(6) A Cannabis Café may not:*

*(A) Allow Customers on the Premises when the Cannabis Café is closed;*

*(B) Store Cannabis or Cannabis Products in any location other than on the permitted Premises;*

*(C) Sell Cannabis or Cannabis Products through a drive-up window; or*

*(D) Give away or Sell pressurized containers of butane or other materials that could be used in the home production of Cannabis extract.*

*(7) A Cannabis Café may accept returns of Cannabis and Cannabis Products that were previously sold by the Cannabis Café, but shall not resell Cannabis or Cannabis Products that have been returned. A Cannabis Café shall destroy all Cannabis and Cannabis Products that have been returned or abandoned in a manner consistent with state and local law.*

*(8) A Cannabis Café must maintain an electronic age verification device to determine the age of any individual attempting to enter the premises and/or purchase Cannabis or Cannabis Products, which device shall be used for the Sale of the Cannabis or Cannabis Products to the Customer. The device shall be maintained in operational condition and all employees shall be instructed in its use. Cannabis and Cannabis Products shall not be sold to a Customer if the electronic age verification device is not functioning.*

**SEC. 1630. INSPECTIONS.**

* * * *

(c) The Police Department may conduct random, onsite "sting" operations on the Premises of Cannabis Retailers *and Cannabis Cafés* to determine compliance with Section

1619 of this Article 16. In conducting these inspections, the Police Department may enlist the assistance of persons under 21 years of age.

* * * *

Section 5. Article 2 of the Business and Tax Regulations Code is hereby amended by revising Section 249.20 to read as follows:

**ARTICLE 2: LICENSE FEES**

*** * * ***

**SEC. 249.20. CANNABIS BUSINESS PERMIT AND LICENSE FEES.**

(a) Except as provided in subsection (d), the Director of the Office of Cannabis shall charge every applicant for a cannabis business permit, as set forth in Section 1607 of the Police Code, a one-time non-refundable permit application fee of $2,000 to recover the costs incurred by the Office of Cannabis of processing the permit application. Except as provided in subsection (d), the Director shall charge an applicant for a permit amendment the hourly costs of processing that amendment, which shall include a minimum two-hour charge. The hourly rate for processing a permit amendment shall be $110. Such costs for processing applications for permits and permit amendments shall include costs relating to services provided by the Office of the City Attorney, the Controller's Office, and such other offices as may be required to assist the Office of Cannabis in this processing function.

(b) Except as provided in subsection (d), the Director of the Office of Cannabis shall charge every person, firm, or corporation engaged in operating a cannabis business, as set forth in Section 1607 of the Police Code, a license fee of $3,000 for the first year of operation and an annual license fee of $5,000 for each subsequent year of operation, to recover the costs incurred by the Office of Cannabis in implementing Article 16 of the Police Code. Such costs shall include costs, if any, relating to services provided by the Office of the City Attorney,

the Controller's Office, the Department of Human Resources, the Department of Technology, the Office of Contract Administration, and such other offices as may be required to assist the Office of Cannabis in this function. The annual license fee shall be paid annually on or before March 31, in accordance with the provisions of Section 76.1 of the Business and Tax Regulations Code.

* * * *

(d) The Director of the Office of Cannabis shall not charge an Equity Applicant, as that term is defined in Section 1604 of the Police Code, the one-time non-refundable permit application fee of $2,000 for a cannabis business permit required by subsection (a), any fees for the hourly costs of processing a permit amendment for the first year of operation required by subsection (a), or the license fee of $3,000 for the first year of operation as required by subsection (b)*, except to the extent such fees are for a Cannabis Café permit*.

* * * *

Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The

Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 8. Effective Date. This ordinance shall become effective at 12:00 a.m. on the 31st day 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.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ *Sarah Crowley*
SARAH CROWLEY
Deputy City Attorney

4898-5305-0775, v. 2

# LEGISLATIVE DIGEST

[Various Codes - Cannabis Cafés]

**Ordinance amending the Health, Planning, Police, and Business and Tax Regulations Codes to establish a new permit type for cannabis cafés to be administered by the Office of Cannabis that will authorize the permittee to sell cannabis and cannabis products only for consumption on the premises of the café; exempt cannabis cafés from the prohibition on smoking in business establishments; eliminate the prohibition on establishments with a cannabis consumption permit requiring employees to enter a designated smoking room as a condition of employment; exempt cannabis cafés in certain circumstances from the 600-foot buffer rule that applies to cannabis retail establishments; restrict eligibility for cannabis café permits for one year to businesses that currently hold a cannabis storefront retailer permit or that have the same owners as such a business; require Equity Applicants that apply for a cannabis café permit to pay the $2,000 application fee, any permit amendment processing costs, and the $3,000 license fee for the first year of operation, associated with the cannabis café permit; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making public necessity, convenience, and welfare findings under Planning Code, Section 302.**

## Existing Law

Current law does not include a distinct permit category for cannabis cafés.

Current law does not clearly exempt cannabis cafés from the ban on smoking in enclosed spaces.

Current law prohibits an establishment with a cannabis consumption permit from requiring employees to enter a designated smoking room as a condition of their employment.

Current law generally prohibits approval of a cannabis retail establishment that would be located within 600 feet of another retail establishments (the "600 foot buffer rule").

Current law exempts equity applicants for cannabis business permits from paying the one-time permit application fee of $2,000, any fees for the hourly costs of processing a permit amendment for the first year of operation, and the license fee of $3,000 for the first year of operation.

## Amendments to Current Law

The proposed ordinance would create a permit for cannabis cafés, to be administered by the Office of Cannabis.

The proposed ordinance would, for one year following its effective date, limit eligibility for cannabis café permits to businesses that either currently hold a storefront cannabis retailer permit or share all of the same owners as a business that currently holds a storefront cannabis retailer permit.

The proposed ordinance would prohibit issuance of a cannabis café permit to an applicant if an individual holding a legal or beneficial interest in that applicant already holds a legal or beneficial interest in four or more businesses that either hold valid cannabis café permits or have pending applications for cannabis café permits.

The proposed ordinance would expressly exempt cannabis cafés from the ban on smoking in enclosed spaces.

The proposed ordinance would eliminate the prohibition on establishments with cannabis consumption permits requiring employees to enter a designated smoking room as a condition of their employment.

The proposed ordinance would add an exception to the 600 foot buffer rule for a cannabis café that is located within 600 feet of a storefront cannabis retailer that shares all of the same owners as the cannabis café, so long as no other cannabis cafés sharing all of the same owners are already located within 600 feet of the storefront cannabis retailer.

The proposed ordinance would require equity applicants that receive a cannabis café permit to pay the standard one-time permit application fee of $2,000, fees for the hourly costs of processing a permit amendment for the first year of operation, and the license fee of $3,000 for the first year of operation.

4900-3879-8744, v.1

# Introduction Form

*(by a Member of the Board of Supervisors or the Mayor)*

I hereby submit the following item for introduction (select only one):

- [x] 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- [ ] 2. Request for next printed agenda (For Adoption Without Committee Reference)
  *(Routine, non-controversial and/or commendatory matters only)*
- [ ] 3. Request for Hearing on a subject matter at Committee
- [ ] 4. Request for Letter beginning with "Supervisor _____ inquires…"
- [ ] 5. City Attorney Request
- [ ] 6. Call File No. _____ from Committee.
- [ ] 7. Budget and Legislative Analyst Request (attached written Motion)
- [ ] 8. Substitute Legislation File No. _____
- [ ] 9. Reactivate File No. _____
- [ ] 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

☐ Yes ☐ No

*(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)*

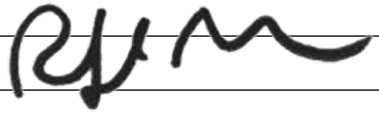
Sponsor(s):

Mandelman

Subject:

Various Codes - Cannabis Cafés

Long Title or text listed:

Ordinance amending the Health, Planning, Police, and Business and Tax Regulations Codes to establish a new permit type for cannabis cafés to be administered by the Office of Cannabis that will authorize the permittee to sell cannabis and cannabis products only for consumption on the premises of the café; exempt cannabis cafés from the prohibition on smoking in business establishments; eliminate the prohibition on establishments with a cannabis consumption permit requiring employees to enter a designated smoking room as a condition of employment; exempt cannabis cafés in certain circumstances from the 600-foot buffer rule that applies to cannabis retail establishments; restrict eligibility for cannabis café permits for one year to businesses that currently hold a cannabis storefront retailer permit or that have the same owners as such a business; require Equity Applicants that apply for a cannabis café permit to pay the $2,000 application fee, any permit amendment processing costs, and the $3,000 license fee for the first year of operation, associated with the cannabis café permit; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making public necessity, convenience, and welfare findings under Planning Code, Section 302.

Signature of Sponsoring Supervisor: