

1 [Administrative Code - Establishing an Office of Cannabis and Extending the Term of the Cannabis State Legalization Task Force]

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3 **Ordinance amending the Administrative Code to establish an Office of Cannabis; to**
4 **authorize the Director of the Office of Cannabis to issue permits to cannabis-related**
5 **businesses; to direct the Director of the Office of Cannabis to collect permit application**
6 **and annual license fees following the enactment of a subsequent ordinance**
7 **establishing the amounts of those fees; and to extend the term of the Cannabis State**
8 **Legalization Task Force.**

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

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

17 Section 1. Findings.

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

23 Under Proposition 64, localities retain authority to regulate the non-medical cannabis
24 industry, including but not limited to the authority to prohibit commercial activities relating to
25 non-medical cannabis entirely, or to authorize such activities and impose licensing
requirements and land use restrictions. Businesses that apply for state permits to engage in

1 commercial cannabis activities will need to demonstrate that the issuance of a state permit
2 would not violate the provisions of any local ordinance or regulation.

3 In 2015, in anticipation of the legalization of cannabis, the Board of Supervisors created
4 the Cannabis State Legalization Task Force (the “Task Force”) of the City and County of San
5 Francisco. (Ordinance No. 115-15; Admin. Code Ch. 5, Art. II.) The purpose of the Task
6 Force is to advise the Board of Supervisors, the Mayor, and other City departments on
7 matters relating to the potential legalization of cannabis so that the City’s policymakers are
8 fully prepared to address policy questions, through legislation, administrative actions, and
9 otherwise, following the adoption of a State law.

10 In January 2017, the Task Force presented preliminary recommendations to the Board
11 of Supervisors. A copy of its report, entitled “San Francisco State Cannabis Legalization Task
12 Force Year I Report and Recommendations,” is on file with the Clerk of the Board of
13 Supervisors in File No. 170036. The Task Force is working towards final recommendations
14 for a regulatory framework governing cannabis in San Francisco.

15 Section 2. The Administrative Code is hereby amended by adding to Chapter 2A,
16 Article XXVI, entitled “Cannabis Regulation,” consisting of Sections 2A.420-2A.422, to read as
17 follows:

18 **ARTICLE XXVI: CANNABIS REGULATION**

19 **SEC. 2A.420. OFFICE OF CANNABIS.**

20 **(a) Establishment.** *The Mayor shall establish an Office of Cannabis under the direction of the*
21 *City Administrator to oversee the implementation of laws and regulations governing cannabis in San*
22 *Francisco. The City Administrator shall appoint a Director of the Office of Cannabis. The Office of*
23 *Cannabis shall include such officers and employees as are authorized pursuant to the budgetary and*
24 *fiscal provisions of the Charter.*

1 (b) Duties and functions. The Director of the Office of Cannabis and/or his or her designee
2 (“Director”) shall issue, deny, condition, suspend, or revoke such permits in accordance with
3 applicable laws and regulations. The final decision of the Director regarding a permit may be appealed
4 to the Board of Appeals in the manner prescribed in Article 1 of the San Francisco Business and Tax
5 Regulations Code.

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

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

13 The Office shall ensure that the perspectives of communities that historically have been
14 disproportionately impacted by federal drug enforcement policies are included and considered
15 in all policy decisions.

16 **SEC. 2A.421. APPLICATION AND ANNUAL LICENSE FEES.**

17 (a) Beginning January 1, 2018, the Office of Cannabis shall charge every applicant for
18 a cannabis-related permit a non-refundable permit application fee. The Office of Cannabis
19 shall also charge every business that receives a cannabis-related permit an annual license
20 fee.

21 (b) The Office of Cannabis shall not collect any application or license fees under this
22 Section 2A.421 until the Board of Supervisors enacts an ordinance establishing the amounts
23 of those fees. No later than November 1, 2017, the Director, in consultation with the
24 Controller, shall submit to the Board of Supervisors a proposed ordinance setting a schedule
25 of permit application and annual license fees. The proposed fee schedule shall be calculated

1 to recover but not exceed the City's estimated costs of application-related and licensing-
2 related activities, including but not limited to: administration, public outreach and education,
3 development and maintenance of an online portal and application system, review and
4 processing of applications and permit renewals, complaint resolution, inspections,
5 enforcement activities, adjudication of appeals, and coordination with state agencies and
6 other city departments. In developing this fee schedule, the Director shall estimate the number
7 of permits and licenses to be issued per year, and consider any other information he or she
8 determines appropriate in making the cost estimates referenced above.

9 (c) Beginning with fiscal year 2018-2019, the permit application and annual license fees
10 set pursuant to subsection (b) of this Section 2A.421 may be adjusted each year on July 1,
11 without further action by the Board of Supervisors. Not later than April 1 of each year, the
12 Controller shall determine whether the current fees have produced or are projected to produce
13 revenues sufficient to support the costs of application-related and licensing-related activities,
14 and that the fees will not produce revenue that is significantly more than the costs of providing
15 such services. The Controller shall, if necessary, adjust the fees upward or downward for the
16 upcoming fiscal year as appropriate to ensure that the program recovers the costs of
17 operation without producing revenue that is significantly more than such costs. The adjusted
18 rates shall become operative on July 1.

19 **SEC. 2A.421. EXCLUSIONS.**

20 Nothing in this Article XXVI is intended to limit or abridge the permitting, licensing, or
21 inspection authority of any other City department over commercial businesses or real property.

22 **SEC. 2A.422. UNDERTAKING FOR THE GENERAL WELFARE.**

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

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4 Section 3. The Administrative Code is hereby amended at Chapter 5, Article II, Section
5 5.2-7, to read as follows:

6 **SEC. 5.2-7. SUNSET.**

7 Unless the Board of Supervisors by ordinance extends the term of the Task Force, this
8 Article II shall expire by operation of law, and the Task Force shall terminate, on December
9 31, 2018 ~~2017, two years after the effective date of Ordinance No. 115-15 establishing the~~
10 ~~Task Force.~~ After that date, the City Attorney shall cause this Article to be removed from the
11 Administrative Code. The terms of all members on the Task Force on July 12, 2017 shall
12 continue until the termination of the Task Force.

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14 Section ~~34~~. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.

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

22 By: _____
23 NEHA GUPTA
24 Deputy City Attorney

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