



# SAN FRANCISCO PLANNING DEPARTMENT

October 26, 2017

Ms. Angela Calvillo, Clerk  
Honorable Mayor Edwin Lee  
Honorable Supervisor Jeff Sheehy  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Re: Transmittal of Planning Department Case Number 2017-010365PCA:  
Cannabis Regulations  
Board File No. 171041  
Planning Commission's Action: Approval with Modification**

Dear Ms. Calvillo, Mayor Lee and Supervisor Sheehy,

On October 19, 2014, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance, introduced by Mayor Lee and Supervisor Sheehy that would amend the Planning Code to include land use regulations for various cannabis related activities. At the hearing the Planning Commission voted to approve the ordinance with modifications.

The Following are clerical amendments proposed by Staff that the Commission voted to add to the ordinance by a single vote:

1. Add Cannabis Retail to the list of Active Commercial uses in Table 145.4.
2. Change "Non-Retail Greenhouse or Plant Nursery" to "Industrial Agriculture" in Code Section 846.87, the SALI district zoning control table.
3. Delete the following sentence located on Page 11, lines 4-7 in Version 2 of the proposed ordinance:

Smoking on the premises of a Medical Cannabis Dispensary Use located within ~~1000~~600 feet of a School, public or private, ~~or a Public Facility, Community Facility, or Private Community Facility that primarily serves persons under 18 years of age~~ is not permitted.

4. Add the following text to the definition (Section 102) or location and operating conditions (Section 202.2(e)) for MCDs.

"Cannabis may be consumed on site pursuant to authorization by the City's Office of Cannabis and Department of Public Health, as applicable"

The Following amendments were proposed by the Commission and added with separate votes:

5. Increase the 600' buffer around Schools to 1,000 feet, +4 -2 (Koppel and Hillis against);

6. Replace the 300 foot clustering option with the "Orbit Option" outlined in in the staff report, +5 -1 (Hillis against); and
7. Allow Cannabis Retail and MCDs in NC-1 Districts in Supervisorial District 4, +5 -1 (Hillis against).

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Sponsors, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes added by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



Aaron D. Starr  
Manage of Legislative Affairs

cc:

Victoria Wong, Deputy City Attorney  
Bill Barnes, Aide to Supervisor Sheehy  
Mawuli Tugbenyoh, Liaison to the Board of Supervisors, Mayor's Office  
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution  
Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Executive Summary Planning Code Text Amendment

HEARING DATE: OCTOBER 19, 2017  
90- DAY EXPIRATION DATE: JANUARY 1, 2018

*Project Name:* **Cannabis Regulations**  
*Case Number:* **2017-010365PCA** [Board File No. 171041]  
*Initiated by:* Mayor Lee and Supervisor Sheehy/ Re-Introduced October 3, 2017  
*Staff Contact:* Aaron Starr, Manager of Legislative Affairs  
*aaron.starr@sfgov.org*, 415-558-6362  
*Reviewed by:* Daniel A. Sider, AICP; Senior Advisor for Special Projects  
*[dan.sider@sfgov.org](mailto:dan.sider@sfgov.org)*; (415) 558-6697  
*Recommendation:* **Approval with Modifications**

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

### PLANNING CODE AMENDMENT

Ordinance amending the Planning Code to 1) establish regulations for land uses associated with the adult use (i.e. nonmedical) cannabis industry, including Cannabis Retailers, cannabis delivery services, manufacture of cannabis products, cannabis cultivation, and cannabis testing; 2) modify existing regulations for Medical Cannabis Dispensaries to allow them in additional locations throughout the City; and 3) establish a process for the conversion of existing Medical Cannabis Dispensaries to Cannabis Retail establishments.

#### The Way It Is Now:

1. San Francisco Department of Public Health oversees the licensing and operations of Medical Cannabis Dispensaries (MCDs).
2. MCDs are currently prohibited in PDR, Eastern Neighborhoods Mixed Use, and South of Market Mixed-Use zoning districts; the Japantown, Pacific Avenue, and Folsom Street Neighborhood Commercial Districts (NCDs); and the Regional Commercial District.
3. In most Neighborhood Commercial Transit (NCT) Districts and NCDs, MCDs are allowed on the first floor subject to Mandatory Discretionary Review or Conditional Use (CU) authorization, depending on the zoning district; however, they are generally not allowed on the second floor.
4. MCDs must be located more than a 1,000 from a school or a youth-serving Public or Community Facility.
5. City law is silent on the retail sale of non-medical cannabis.
6. City law is silent on the commercial growing, manufacture, testing, or distribution of cannabis.
7. The Planning Code does not have a provision that allows for the conversion of MCD to a facility that sells adult use cannabis.
8. MCDs are not subject to Formula Retail Controls, but they are subject transparency requirements.
9. There is a limit of three MCDs in Supervisorial District 11.

The Way It Would Be:

1. The newly formed Office of Cannabis would regulate the cannabis industry in San Francisco, including MCDs and adult use cannabis facilities, by issuing licenses and setting operating conditions specific to the cannabis industry. The Department of Public Health would still perform its inspection and regulatory functions outside of licensing and the operating conditions of cannabis facilities.
2. MCDs would now be allowed in PDR, Eastern Neighborhoods Mixed Use, South of Market Mixed-Use zoning districts; the Japantown, Pacific Avenue, and Folsom Street NCDs; and the Regional Commercial District. In PDR Districts, MCDs would be subject to the size limits for other retail uses.
3. MCDs would be allowed on both the first and second floor in NC Districts, subject to either Mandatory Discretionary Review or CU authorization, deepening on what the current regulations are for the subject zoning district.
4. The 1000 foot buffer around sensitive uses would be reduced to 600 feet, which is the state standard. In addition, the definition of sensitive uses would be revised to only include Schools; however other sensitive uses would be considered as part of conditional use findings.
5. A new land use definition would be created, Cannabis Retail, which would allow the retail sale of cannabis and cannabis-related products for adult use, and may also include the sale or provision of cannabis for medicinal use and on-site consumption. Cannabis Retail establishments would be prohibited within 600 feet of a School (as defined by the Planning Code), and would not be permitted within 300 feet of another Cannabis Retail or MCD. Cannabis Retailers would be allowed as follows:
  - a. Residential (RH, RM, RTO) Districts: Prohibited.
  - b. Industrial (PDR) Districts: Allowed only in conjunction with a State Microbusiness License; 2/3 of the premises must be dedicated to cannabis-related PDR.
  - c. Neighborhood Commercial (NC) & Chinatown Districts: Allowed on 2nd floor and below with Conditional Use ("CU") excepting (1) a prohibition in the NC-1 and NCT-1 Districts and (2) a prohibition above the ground floor in the CR-NC District.
  - d. Residential-Commercial (RC) Districts: Permitted as of right on the ground floor; CU required above the ground floor.
  - e. Eastern Neighborhoods Districts: Neighborhood notice required, except that CU required in SPD and MUG Districts.
  - f. Community Business (C-2), Downtown (C-3; DTR) and SoMa Districts: Permitted as of right.
6. Existing PDR land uses would be amended to explicitly allow for cannabis related activity. In addition, Neighborhood Agriculture and Large Scale Urban Agriculture definitions would be amended to explicitly prohibit the growing of cannabis for commercial or personal use. Uses that would be amended to include cannabis commercial activity are as follows:
  - a. Industrial Agriculture (currently named Greenhouse) for the growing of cannabis. This use requires that cannabis be grown inside and limits the overall canopy to 22,000 sq. ft.
  - b. Light Manufacturing for the manufacturing of cannabis produced without the use of volatile organic compounds (State License Type 6);
  - c. Agricultural and Beverage Processing 2 for the manufacture of cannabis products using volatile organic compounds (State License Type 7);
  - d. Wholesale for the wholesale distribution of cannabis products (State License Type 11);
  - e. Laboratory for the testing of cannabis and cannabis products (State License Type 8);

- f. Parcel Delivery Service for retail cannabis delivery where there is no on site cannabis retail.
7. Section 190 would be added to the Planning Code, which would allow existing MCDs to convert to Cannabis Retail with only a change of use application. Also, existing MCDs that wish to convert to sell adult use cannabis would not be subject to the location restrictions for Cannabis Retail.
8. MCDs and Cannabis Retail would be subject to Formula Retail Controls and transparency requirements.
9. The limit on three MCDs in Supervisor District 11 would be removed from the Code.

## **BACKGROUND**

On October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation and Safety Act ("MMRSA"), effective January 1, 2016, which established a comprehensive state licensing and regulatory framework for the cultivation, manufacturing, testing, distribution, transportation, dispensing, and delivery of medicinal cannabis, and which recognized the authority of local jurisdictions to prohibit or impose additional restrictions on commercial activities relating to medicinal cannabis. MMRSA was later renamed the Medical Cannabis Regulation and Safety Act ("MCRSA").

On November 8, 2016, the voters of California approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA), which decriminalized the nonmedicinal use of cannabis by adults 21 years of age and older, created a state regulatory, licensing, and taxation system for non-medicinal cannabis businesses, and reduced penalties for marijuana-related crimes. San Franciscans overwhelmingly approved of legalized adult use cannabis with 74.3% voting yes on Proposition 64.

On November 9, 2016, the Mayor issued Executive Directive 16-05, "Implementing Prop 64: Adult Use of Marijuana Act," directing the Department of Public Health and the Planning Department, in consultation with other departments, to move forward with legislation for the Board of Supervisors' consideration that would address land use, licensing, safety, and youth access issues related to adult use cannabis under Proposition 64. Pursuant to that Executive Directive, the City developed this comprehensive legislation that will establish a complete regulatory framework for a broad range of cannabis businesses, and that will identify where, and under what conditions, they may operate.

On June 27, 2017, Governor Brown signed into law the Medicinal and Adult-Use Cannabis Regulations and Safety Act (MAUCRSA), which reconciled MCRSA and Proposition 64, and established a unified state regulatory scheme for commercial activities relating to both medicinal and adult use cannabis. Under MAUCRSA, businesses that engage in commercial cannabis activities will be required to obtain a state cannabis license and comply with strict operating conditions. MAUCRSA requires that state agencies begin issuing state cannabis business licenses by January 1, 2018. Under MAUCRSA, local jurisdictions may adopt and enforce ordinances to further regulate cannabis businesses, including but not limited to zoning and permitting requirements.

## **ISSUES AND CONSIDERATIONS**

### **Office of Cannabis**

The Administrative Code establishes an Office of Cannabis (OOC) under the direction of the City Administrator, and authorizes the Director of the OOC to issue permits to cannabis-related businesses, and to collect permit application and annual license fees following the enactment of a subsequent ordinance establishing the amounts of those fees. The new office is responsible for developing and managing a permitting process for all cannabis-related businesses, dealing with complaints, providing policy analysis and development, and serving as a single point of contact for businesses, the public and state regulators. The offices' budgeted for its first fiscal year is \$700,000, which would include three positions and \$225,000 for web site development, public outreach and overhead. The office is expected to recover at least some of its expenses through permitting fees.

### **First Year of Adult Use Cannabis Sales**

During 2018, only social equity applicants and businesses that have been operating in San Francisco prior to September of 2017 will qualify for a license from the OOC. Further, no permit will be issued until the City establishes an equity program. To that end, the City is in the process of developing an equity program that prioritizes communities that have been unfairly targeted by the war on drugs so that they can be the first to take advantage of legalization. A social equity report on which the equity program will be developed is expected on November 1 of this year.

There are around 40 approved MCDs in the city, all of which will be eligible to convert to Cannabis Retail the first year if they submit an application to the Planning Department prior to June 30, 2018. The number of non-retail uses operating in the City right now is harder to account for. Some businesses have already received planning approval for their operations, but are not registered as cannabis businesses. To ensure that the City captures all existing non-retail businesses, the OOC has opened up a registration process for existing non-retail businesses – those operating both with and without benefit or permit - which closes in late November. Only those non-retail businesses that have registered would be eligible for a license to operate in 2018.

### **Non-Retail Cannabis-related Uses**

San Francisco already has a very robust regulatory structure for Production, Distribution and Repair (PDR) uses, which were minimally amended in the proposed ordinance to explicitly include cannabis related activities. A chart showing what uses are allowed in the various zoning districts is included in Exhibit C. The Ordinance also restricts cannabis cultivation to state license types that allow for indoor and/or mixed-light cultivation with up to 22,000 sq. ft. of canopy. This provision basically limits cannabis growing to indoor facilities and to medium size growing operation per the State's licensing categories.

### **Cannabis Retail**

The proposed ordinance creates a new Retail Sales and Service use called Cannabis Retail, which allows for the sale of cannabis and cannabis-related products for adult use, and that may also include the sale of cannabis for medicinal use. The definition allows for cannabis to be consumed on-site; however only upon the authorization by the City's Office of Cannabis and Department of Public Health. Cannabis Retail is also included in the list of uses considered to be Formula Retail and Cannabis Retail will also be subject to the Planning Code's transparency requirements. The ordinance prohibits Cannabis Retail from being established within 600 of a School, and within 300 feet of an existing MCD or another Cannabis Retail establishment.

### Future of MCDs

The question of whether or not to keep the MCD land use definition in the Planning Code was internally debated and fully considered by Planning Staff. Staff wanted to balance the desire to avoid over complicating the land use categories for retail cannabis, while at the same time acknowledging that MCDs had the potential to persist as a discrete land use with unique – and likely less notable – externalities. The current legislative proposal maintains the separate land use category for medical cannabis at least until the City has a better understanding of how the cannabis industry will take shape. Staff's main reasons for maintaining the MCD definition include:

1. **Clear Conversion Process:** Keeping two distinct land uses provides a clear path for existing MCDs to convert to Cannabis Retail. If we do not keep MCDs as a separate land use, it's not clear how we could control for the conversion from an MCD to a Cannabis Retail use. Nor is it clear how we would treat those that decide not to convert to Cannabis Retail. The problem isn't insurmountable, but maintaining the MCD definition makes the conversion process more straightforward and easier to implement.
2. **Less Impactful Use:** Starting January 1, 2018, the rules for doctors that recommend cannabis will change in three significant ways: 1) The doctor recommending cannabis must be the patient's attending physician; 2) the doctor recommending cannabis cannot have a financial interest in a dispensary or be an employee of a dispensary; and 3) the doctor recommending cannabis has to perform a proper examination before recommending cannabis, lest issuance of the recommendation be deemed unprofessional conduct. Further, the law also has a provision directing the Medical Board of California to consult with the California Marijuana Research Program in order to develop and adopt medical guidelines for the appropriate administration and use of medical cannabis. Presumably, when these guidelines are adopted there will be a set list of medical conditions for which doctors can recommend cannabis. These changes are highly likely to significantly reduce the number of customers for conventional medical-only establishments, making them a less intensive land use. Cannabis Retail, on the other hand, will not only be used by medical users, but also by a range of adult users, both locals and tourists. Further, since Medical Cannabis Dispensaries are likely to be a less impactful land use, a less rigorous approval process was felt to be appropriate.
3. **Medical Cannabis Community.** An ongoing dialogue with those involved in the cannabis community, including through the City's Cannabis Legalization Task Force, suggests a desire to maintain the San Francisco's leading medical cannabis industry and culture. Local MCDs employ experts familiar with what types of cannabis are best for various ailments, have compassionate care programs that provide free cannabis to lower income patients, and provide cannabis products more oriented toward the medical market than the adult use market.
4. **The Unknown:** It is far from clear as to what the adult use cannabis market will look like and how it will impact the medical cannabis industry, or to fully understand its future interaction with our neighborhoods. Keeping the medical use allows the City to take a more measured approach. If, in a few years, it turns out that we no longer need a separate land use category, then the City can reexamine the need for two definitions.

### **“Buffering” Alternatives**

At the September 26, 2017 informational hearing, some Commissioners expressed a dissatisfaction with the proposed 300’ minimum distance between various retail cannabis uses. In response, Staff has developed the following three alternatives to the proposed 300 foot buffering provision in the proposed ordinance:

**The “District Concentration” Option.** Rather than requiring a 300 foot radius around existing Cannabis Retail and MCDs, this option would examine the overall concentration of Cannabis Retailers and MCDs within a given Neighborhood Commercial District when deciding whether or not a new establishment should move forward. This option is similar to how the Department examines Restaurant and Formula Retail concentration; however those two options only look at the immediate 300 foot radius or ¼ mile radius to determine concentration, not the entire Neighborhood Commercial District.

For Restaurants, the concentration is not allowed to exceed 25 percent of the total commercial frontage within 300’ of the subject property (and also located within the same zoning district). For Formal Retail, no specific concentration limit is established in the Code. The Department’s review includes all parcels that are wholly or partially located within the 300-foot radius or quarter-mile radius. For each property, the total linear frontage of the lot facing a public right-of-way is divided by the number of storefronts. Those numbers are then used to calculate the percentage of the total linear frontage for Formula Retail and non-Formula Retail uses within the immediate area.

Staff has some concerns with this approach, the first being: What is the appropriate percentage for a neighborhood commercial district? The second is implementation. Some districts are very large (e.g. several miles long), while others are fairly small, encompassing only a few blocks. Evaluating the composition of an entire NCD every time there is a proposed MCD or Cannabis Retailer will require a significant amount of time and efforts – not just for City Staff but also for prospective applicants and concerned members of the public. Further, while the City’s Zoning Maps present clear boundaries for neighborhood commercial district, members of the public fairly perceive neighborhoods to be less rigid and unencumbered by seemingly arbitrary lines on a map. It would also be difficult to apply to those zoning district that do not require CU authorization for cannabis businesses since this approach would require a level of analysis not typical for as-of-right permits.

**The “Clustering-As-Finding” Option.** This option would remove the mandatory buffering in neighborhoods that require CU authorization, and instead make the 300’ buffer a finding as part of the CU evaluation process. In neighborhoods that do not require CU authorization, a retail cannabis business would be principally permitted unless it was within 300 feet of another retail cannabis business, in which case CU would be required. This option provides more flexibility for retail cannabis business in neighborhoods where CU authorization is required, and also helps ensure that neighborhoods where retail cannabis business are permitted as-of-right don’t become over-concentrated. It’s also fairly straightforward to implement. This criterion would be weighed against existing CU criteria in the Code along with other new CU criteria established by this ordinance.

**The “Orbit” Option.** This option would establish a more general, yet easily understood clustering rule, by allowing a new retail cannabis business only if there were no more than two other existing retail cannabis businesses within a 1,000 foot radius of the proposed site. In other



words, a maximum of three retail cannabis businesses would be permitted within a 1,000 foot radius. Two variants of this option exist, either (1) a “hard cap” that would prohibit more than three retail cannabis establishments within 1,000 feet or (2) a “soft cap” that would trigger CU, with clustering as a finding, if that trigger was met. As above, this latter option allows for more flexibility, while the former is a clearer bright-line regulation. The Orbit Option – or either variant – could theoretically be applied citywide or in certain Zoning Districts. The 1,000 foot radius and number of cannabis retailer could also be adjusted based on further analysis and research.

### **On-site Consumption**

At the September 26, 2017 informational hearing, some Commissioners expressed an interest in allowing at-least some level of on-site adult use cannabis consumption at Cannabis Retailers.

On-site consumption can include, but is not limited to, applying salves or balms, vaporizing or smoking the cannabis flower, or ingesting edibles made with cannabis extracts. As currently written, The Planning Code allows Cannabis Retailer and MCDs to have on-site consumption so long as they get authorization from the OOC and Department of Public Health, as applicable.

Currently, there are eight MCDs in the City that allow on-site vaporizing or smoking. The proposed Ordinance would limit onsite vaporizing or smoking to those eight existing MCDs, and should those MCDs convert to Cannabis Retail they would forfeit their permit to have on-site vaporizing or smoking. The intention, based on the Department of Public Health’s highly successful anti-tobacco campaign, is to maintain indoor air quality for the health of the establishment’s employees and customers. A concern has also been expressed regarding mixed messages with regards to smoking tobacco and smoking cannabis by allowing later, but prohibiting the former.

Department Staff has significant concerns that if the City fails to allow at least some on-site vaporizing or smoking, patrons will undoubtedly vaporize and smoke cannabis on streets, sidewalks, parks, plazas, and other public places. In these places, it is not only prohibited by state law, but where the likelihood of youth exposure to cannabis is dramatically higher. While the Department understands concerns about sending mixed messages, tobacco and cannabis are not analogous. One can smoke tobacco on the sidewalk if you are walking and at the curb if one is not. One can also smoke tobacco in a car, on an outdoor patio at a bar, and at various other places. However, state law categorically prohibits the smoking cannabis in public, leaving no place to consume the product legally for those who are not able to smoke cannabis within their home or for tourists. It is instructional to note that the city of Denver did not provide for a place to consume via smoking or vaporizing and subsequently amended their laws to allow for consumption areas upon an increase in unwanted public smoking of cannabis. Department Staff is concerned that not allowing on-site vaporizing or smoking will lead to the same issues that Denver experienced, and result in more people smoking cannabis in places that will impact a greater number of individuals, particularly youth.

### **Accessory Use Provisions**

The Planning Code allows for the accessory sale of cannabis products contingent upon the approval or the OOC; however accessory level sales are not contemplated to be allowed in the first few years of adult use cannabis sales. The Planning Department believes that allowing accessory level sales will reduce the need for cannabis-only businesses thought the city, and helps to normalize the sale of cannabis along the same lines as alcohol and tobacco sales. It also provides a way for small existing business that many not

have the funds to invest in an entirely new enterprise to benefit from this emerging industry. However, accessory cannabis sales are currently impractical both due to (1) the State's prohibition on the sale of alcohol and/or tobacco along with cannabis at the same premises and (2) the absence of nuanced controls necessary to ensure the sale of adult use cannabis as a genuinely subordinate and incidental accessory. The state prohibits cannabis sales in stores that also sell alcohol or tobacco, and requires that the premises be only open to adults 21 years or older.

## **RECOMMENDATION**

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect. Should the Commission wish to seek amendments to the proposed Ordinance, the foregoing discussion is intended to provide useful options to do so.

## **BASIS FOR RECOMMENDATION**

The Planning Department supports the proposed ordinance because it provides a strong and fair regulatory framework for non-retail and retail adult use cannabis sales, and the supporting PDR activities in San Francisco. The ordinance uses well established land use categories to regulate PDR activities, avoiding extra regulations on cannabis PDR uses. The proposed separation from sensitive uses and from other retail cannabis uses for new retail cannabis operations significantly increases the areas of the city that are allowed to have retail cannabis sales, while also directly and indirectly addressing concerns regarding overconcentration in certain neighborhoods.

## **REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

## **IMPLEMENTATION**

The Department has determined that this Ordinance will impact our current implementation procedures; however the proposed changes can be implemented without increasing permit costs or review time.

## **ENVIRONMENTAL REVIEW**

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

## **PUBLIC COMMENT**

The Planning Department has participated in hearings at the Small Business Commission, and the Health Commission. It has also been involved with various outreach meetings including meetings with the cannabis growers and manufacturer, and existing MCD operators. The Small Business Commission has not officially taken an action on the proposed ordinance, but was generally in support of the proposed

ordinance and appreciated the 300 foot buffering provision. The Health Commission has also not taken an official action on the ordinance, but expressed concern about allowing on-site consumption. It was also concerned that the proximity to mental health clinics to future retail cannabis operations, or the saturation of alcohol and tobacco establishments wasn't given consideration in the land use evaluation process. Members of the cannabis industry have indicated that they would like an easier path for conversion of existing MCD to Cannabis Retail, and to allow all existing MCD applicants the ability to obtain a license to operate from the OOC in 2018. As of the date of this report, the Department has not received a letter from the industry outlining their concerns over the proposed ordinance; however, we expect that one will come prior to the Planning Commission hearing.

<b>RECOMMENDATION:</b> <b>Approve the proposed Ordinance.</b>
---

**Attachments:**

- Exhibit A:        Draft Planning Commission Resolution
- Exhibit B:        Board of Supervisors File No. 171041
- Exhibit C:        Matrix for Non-Retail Cannabis controls.
- Exhibit D:        Map showing the existing and proposed "Green Zone"
- Exhibit E:        Map showing the approval process for Cannabis Retail



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Planning Commission Resolution No. 20029

HEARING DATE OCTOBER 19, 2017

*Project Name:* Cannabis Regulations  
*Case Number:* 2017-010365PCA [Board File No. 171041]  
*Initiated by:* Mayor Lee and Supervisor Sheehy/ Re-Introduced October 3, 2017  
*Staff Contact:* Aaron Starr, Manager of Legislative Affairs  
[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org); 415-558-6362  
*Reviewed by:* Daniel A. Sider, AICP; Senior Advisor for Special Projects  
[dan.sider@sfgov.org](mailto:dan.sider@sfgov.org); (415) 558-6697

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

**APPROVING THE PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO 1) REGULATE CANNABIS LAND USES, INCLUDING, AMONG OTHER THINGS, ADULT USE CANNABIS RETAIL, MEDICAL CANNABIS DISPENSARIES, DELIVERY-ONLY SERVICES, MANUFACTURE OF CANNABIS PRODUCTS, CANNABIS CULTIVATION, AND CANNABIS TESTING; 2) ALLOW MEDICAL CANNABIS DISPENSARIES IN ADDITIONAL ZONING DISTRICTS; 3) ESTABLISH A LAND USE PROCESS FOR THE CONVERSION OF EXISTING MEDICAL CANNABIS DISPENSARIES TO CANNABIS RETAIL ESTABLISHMENTS; 4) ESTABLISH LOCATION AND OPERATING CONDITIONS FOR CANNABIS USES; 5) REPEAL ORDINANCE NO. 186-17, WHICH LIMITED THE NUMBER OF MEDICAL CANNABIS DISPENSARIES IN SUPERVISORIAL DISTRICT 11; AND 6) DELETE SUPERSEDED PLANNING CODE PROVISIONS; 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.**

WHEREAS, on September 26, 2017 Mayor Lee and Supervisor Sheehy introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 171041, which would amend the Planning Code to 1) regulate cannabis land uses, including, among other things, adult use cannabis retail, Medical Cannabis Dispensaries, delivery-only services, manufacture of cannabis products, cannabis cultivation, and cannabis testing; 2) allow Medical Cannabis Dispensaries in additional zoning districts; 3) establish a land use process for the conversion of existing Medical Cannabis Dispensaries to Cannabis Retail establishments; 4) establish location and operating conditions for cannabis uses; 5) repeal Ordinance No. 186-17, which limited the number of medical cannabis dispensaries in Supervisorial District 11; and 6) delete superseded Planning Code provisions; and,

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 19, 2017; and,

WHEREAS, The Department determined that the proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission's proposed modifications include:

The Following are clerical amendments proposed by Staff that the Commission recommend be added to the ordinance by a single vote:

1. Add Cannabis Retail to the list of Active Commercial uses in Table 145.4.
2. Change "Non-Retail Greenhouse or Plant Nursery" to "Industrial Agriculture" in Code Section 846.87, the SALI district zoning control table.
3. Delete the following sentence located on Page 11, lines 4-7 in Version 2 of the proposed ordinance:

Smoking on the premises of a Medical Cannabis Dispensary Use located within ~~1000~~600 feet of a School, public or private, ~~or a Public Facility, Community Facility, or Private Community Facility that primarily serves persons under 18 years of age~~ is not permitted.

4. Add the following text to the definition (Section 102) or location and operating conditions (Section 202.2(e)) for MCDs.

"Cannabis may be consumed on site pursuant to authorization by the City's Office of Cannabis and Department of Public Health, as applicable"

The Following amendments were proposed by the Commission and added with separate votes:

5. Increase the 600' buffer around Schools to 1,000 feet, +4 -2 (Koppel and Hillis against);
6. Replace the 300 foot clustering option with the "Orbit Option" outlined in the staff report, +5 -1 (Hillis against); and
7. Allow Cannabis Retail and MCDs in NC-1 Districts in Supervisorial District 4, +5 -1 (Hillis against).

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that the proposed ordinance because it provides a strong and fair regulatory framework for non-retail and retail adult use cannabis sales, and the supporting PDR activities, in San Francisco.
2. The Commission finds that the ordinance uses well established land use categories to regulate PDR activities, avoiding extra regulations on cannabis PDR uses.
3. The Commission Finds that the proposed separation from sensitive uses and from other retail cannabis uses for new retail cannabis operations significantly increases the areas of the city that are allowed to have retail cannabis sales, while also directly and indirectly addressing concerns regarding overconcentration in certain neighborhoods.
4. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

## COMMERCE AND INDUSTRY ELEMENT

### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The proposed ordinance locates commercial and industrial activities according existing zoning districts by utilizing well established PDR zoning categories for non-retail activities and by allowing retail cannabis in commercially zoned districts.*

### OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

#### Policy 3.1

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

#### Policy 3.4

Assist newly emerging economic activities.

*The proposed ordinance seeks to attract, retain and expand the newly emerging cannabis industry, which provides employment opportunities for unskilled and semi-skilled workers*



**OBJECTIVE 6  
MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS  
EASILY ACCESSIBLE TO CITY RESIDENTS.**

**Policy 6.1**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

**Policy 6.2**

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

*The proposed ordinance seeks to balance the need to accommodate the emerging cannabis retail industry, which includes small business enterprises and entrepreneurship with the need to preserve neighborhood-serving goods and services in the city's neighborhood commercial districts. It does this by creating buffering provisions around other similar uses and sensitive uses, effectively controlling the number of cannabis retail businesses that can locate within any one neighborhood commercial district.*

5. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors

from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

6. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 19, 2017.

  
Jonas P. Ionin  
Commission Secretary

AYES: Fong, Johnson, Koppel, Melgar, Richards

NOES: Hillis

ABSENT: Moore

ADOPTED: October 19, 2017