

BOARD of SUPERVISORS



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April 11, 2018

File No. 180319

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On April 3, 2018, Supervisor Peskin introduced the following proposed legislation:

File No. 180319

Ordinance amending the Planning Code to prohibit Cannabis Retail and Medical Cannabis Dispensaries in the Chinatown Mixed Use Districts; 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 findings of public necessity, convenience, and welfare under Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

Not defined as a project under CEQA Guidelines
Sections 15378 and 15060(c)(2) because it does not
result in a physical change in the environment.

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

[Planning Code - Cannabis Retail and Medical Cannabis Dispensaries in Chinatown]

Ordinance amending the Planning Code to prohibit Cannabis Retail and Medical Cannabis Dispensaries in the Chinatown Mixed Use Districts; 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 findings of public necessity, convenience, and welfare 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. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 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 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

1 these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of
2 Supervisors in File No. _____, and is incorporated herein by reference.

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

8
9 Section 2. The Planning Code is hereby amended by revising Sections 803.2, 810,
10 811, and 812, to read as follows:

11
12 **SEC. 803.2. USES PERMITTED IN CHINATOWN MIXED USE DISTRICTS.**

13 A use is the specific purpose for which a property or building is used, occupied,
14 maintained, or leased. Whether or not a use is permitted in a specific Chinatown Mixed Use
15 District is set forth, summarized, or cross-referenced in Sections 810.1 through 812.96 of this
16 Code for each district class.

17 (a) **Use Categories.** The uses, functions, or activities, ~~which~~ that are permitted in each
18 Chinatown Mixed Use District class include those listed in Table 803.2 below by zoning
19 control category and numbered and cross-referenced to the Code Section containing the
20 definition.

21 **TABLE 803.2 USE CATEGORIES PERMITTED IN THE**
22 **CHINATOWN MIXED USE DISTRICTS**
23
24
25

No.	Zoning Control Categories for Uses	Section Number of Use Definition
* * * *		
803.2.75	Cannabis Retail	§ 890.125

* * * *

(C) **Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1 (Accessory Uses for Dwelling Units in R Districts) and 204.5 (Parking and Loading as Accessory Uses) of this Code, a related minor use which is either necessary to the operation or enjoyment of a lawful Principal Use or Conditional Use or is appropriate, incidental, and subordinate to any such use, shall be permitted in Chinatown Mixed Use Districts as an Accessory Use when located on the same lot. Any Use not qualified as an Accessory Use shall only be allowed as a Principal or Conditional Use, unless it qualifies as a temporary use under Sections 205 through 205.2 of this Code.

No use in a Chinatown Mixed Use District will be considered accessory to a Principal Use which involves or requires any of the following:

* * * *

(vii) Cannabis Retail ~~that does not meet the limitations set forth in Section 204.3(a)(3) as defined in Section 890.125 of this Code.~~

* * * *

(D) **Temporary Uses.** Uses not otherwise permitted are permitted in Chinatown Mixed Use Districts to the extent authorized by Sections 205, 205.1, or 205.2 of this Code, except that Temporary Cannabis Retail Uses shall not be permitted in Chinatown Mixed Use Districts.

* * * *

SEC. 810. CHINATOWN COMMUNITY BUSINESS DISTRICT.

* * * *

Table 810

CHINATOWN COMMUNITY BUSINESS DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Chinatown Community Business Controls by Story		
			1st	2nd	3rd+
Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
.75	Cannabis Retail	§§ 202.2(a), 890.125	€	€	
Institutions					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
.83	Medical Cannabis Dispensary	§ 890.133	P		
* * * *					

SEC. 811. CHINATOWN VISITOR RETAIL DISTRICT.

* * * *

Table 811

CHINATOWN VISITOR RETAIL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Chinatown Visitor Retail Controls by Story		
			1st	2nd	3rd+
Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

.75	<i>Cannabis Retail</i>	§§ 202.2(a), 890.125	€	€	
Institutions					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
.83	<i>Medical Cannabis Dispensary</i>	§ 890.133	P		
* * * *					

SEC. 812. CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT.

* * * *

Table 812

**CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *

No.	Zoning Category	§ References	Chinatown Residential Neighborhood Commercial Controls by Story		
			1st	2nd	3rd+
Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
.75	Cannabis Retail	§§ 202.2(a), 890.125	€		
Institutions					


* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
83	<i>Medical Cannabis Dispensary</i>	<i>§ 890.133</i>	<i>P</i>		
* * * *					

Section 3. Effective Date. This ordinance shall become effective 30 days 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.

Section 4. 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.

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

By:


PETER R. MILJANICH
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Cannabis Retail and Medical Cannabis Dispensaries in Chinatown]

Ordinance amending the Planning Code to prohibit Cannabis Retail and Medical Cannabis Dispensaries in the Chinatown Mixed Use Districts; 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 findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The Planning Code regulates cannabis land uses in the City, including Cannabis Retail establishments and Medical Cannabis Dispensaries (MCDs). The Code establishes location and operating conditions for these cannabis uses.

Article 8 of the Planning Code sets forth the zoning controls for Mixed Use Districts in San Francisco, including the three Chinatown Mixed Use Districts: Chinatown Community Business District, Chinatown Visitor Retail District, and Chinatown Residential Neighborhood Commercial District.

In both the Chinatown Community Business District and the Chinatown Visitor Retail District, Cannabis Retail Uses are conditionally permitted on the first and second story, and MCDs are permitted on the first story.

In the Chinatown Residential Neighborhood Commercial District, Cannabis Retail Uses are conditionally permitted on the first story, and MCDs are permitted on the first story.

MCDs are not permitted as Accessory Uses or Temporary Uses in any Chinatown Mixed Use District. Cannabis Retail Uses may be permitted as Accessory Uses in Chinatown Mixed Use Districts where the Office of Cannabis has issued a permit to operate a Cannabis Retail Use accessory to another activity on the same premises. Cannabis Retail Uses may be permitted as Temporary Uses for up to one year between January 1, 2018 and January 1, 2019, if they are authorized as MCDs in the Chinatown Mixed Use Districts.

In addition to the Planning Code's zoning controls and other conditions regulating cannabis uses, the City has recently amended the Administrative, Business and Tax Regulations, Health, and Police Codes to comprehensively regulate commercial activities relating to the cultivation, manufacture, distribution, testing, sale, and delivery of medicinal and adult use cannabis.

Amendments to Current Law

This legislation would prohibit all Cannabis Retail Uses and Medical Cannabis Dispensaries in Chinatown Mixed Use Districts.

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