

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

February 28, 2019

File No. 190109-2

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

Dear Ms. Gibson:

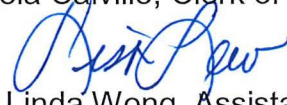
On February 27, 2019, Supervisor Mandelman introduced the following amended legislation:

File No. 190109-2

Ordinance amending the Police Code to establish procedures for the Office of Cannabis to issue permits authorizing cannabis sales or consumption, or both, in connection with temporary events, and providing a mechanism for the temporary waiver of City laws restricting smoking or cannabis consumption; amending the Business and Tax Regulations Code to establish an application fee for such permits; amending Division I of the Transportation Code to allow for temporary waivers of Article 19L of the Health Code in connection with events approved by ISCOTT; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By: 
Linda Wong, Assistant Clerk
Budget and Finance Committee

Attachment

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

[Police, Business and Tax Regulations, Transportation Codes - Event-Related Cannabis Permits - Application Fee]

Ordinance amending the Police Code to establish procedures for the Office of Cannabis to issue permits authorizing cannabis sales or consumption, or both, in connection with temporary events, and providing a mechanism for the temporary waiver of City laws restricting smoking or cannabis consumption; amending the Business and Tax Regulations Code to establish an application fee for such permits; amending Division I of the Transportation Code to allow for temporary waivers of Article 19L of the Health Code in connection with events approved by ISCOTT; and affirming the Planning Department’s determination under the California Environmental Quality Act.

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 ~~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. 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. 190109 and is incorporated herein by reference. The Board affirms this determination.

1 Section 2. Article 16 of the Police Code is hereby amended by adding Section 1621.5,
2 to read as follows:

3 **SEC. 1621.5. EVENTS.**

4 **(a) Cannabis Event Permits.** *In addition to the Cannabis Business Permits described*
5 *elsewhere in this Article 16, the Director may, as set forth in this Section 1621.5, issue Cannabis Event*
6 *Permits authorizing sales of cannabis or cannabis products to, and/or consumption of cannabis or*
7 *cannabis products by, persons 21 years of age or older, in connection with temporary events. For*
8 *purposes of this Section, “temporary events” shall be defined consistent with California Business and*
9 *Professions Code Section 26200(e) and implementing regulations. Such events may be held in any*
10 *location approved by the Director and otherwise consistent with applicable State and City laws,*
11 *whether that location is on or off the Premises of a Cannabis Business.*

12 **(b) Applications.** *Each applicant for a Cannabis Event Permit shall file an application with*
13 *the Director in such form as the Director may require, and provide the Director with any requested*
14 *information concerning the applicant and related Persons, the proposed event, and other subjects that*
15 *the Director deems relevant to the proposed event. Additionally, each applicant shall pay the*
16 *application fee set forth in Section 249.20 of the Business and Tax Regulations Code.*

17 **(c) State Approval.** *A Cannabis Event Permit may be issued only to an applicant who holds*
18 *an Event Organizer License issued by the California Bureau of Cannabis Control, or that is otherwise*
19 *authorized by State law to organize temporary cannabis events.*

20 **(d) Concurrence of Relevant City Departments.** *Whenever any other City department,*
21 *office, agency, committee, commission, or official, or combination thereof (collectively, “City*
22 *entity”) has issued a permit in connection with a temporary event, or has received an application for*
23 *such a permit, or otherwise has the authority to issue permits or other approvals necessary for a*
24 *temporary event, and an applicant seeks a Cannabis Event Permit in connection with that event, the*
25 *Director shall consult with each such City entity before issuing any Cannabis Event Permit. In each*

1 such case, the Director shall not issue a Cannabis Event Permit unless each City entity determines,
2 under the criteria it may otherwise use to grant or deny a permit in connection with the proposed event
3 (including, but not limited to, any policy adopted by the City entity relating to cannabis sales and/or
4 consumption at events) that the Cannabis Event Permit should issue, except that the Director may issue
5 a permit conditioned upon approval by other City entities pending review by those other City entities.

6 **(e) Temporary Waiver of Certain City Laws.** A City entity described in subsection
7 (d) may, in its discretion and after considering public health and public safety, temporarily
8 wave, for a period not to exceed the duration of the proposed event, any City law that would
9 restrict or prohibit smoking (including, but not limited to, Article 19 through Article 19L of the
10 Health Code) in all or part of the proposed event space, or any other provision of the
11 Administrative, Health, Park, or Police Codes that would otherwise restrict or prohibit the
12 consumption of cannabis or cannabis products in all or part of the proposed event space.
13 When any such City law is waived pursuant to this subsection (e), the event shall be deemed
14 to be in compliance with the suspended City law for purposes of any City law requiring such
15 compliance. This subsection (e) shall not be construed to authorize any waiver of State law.

16 **(ef) Discretionary Grant or Denial.** Except as provided in subsections (c), (d), and (h), the
17 Director may grant or deny a Cannabis Event Permit in his or her reasonable discretion based on one
18 or more of the following findings:

19 (1) The applicant has not sufficiently established that the sale or consumption of
20 cannabis or cannabis products at the event would comply with all applicable State and City laws;

21 (2) The applicant has not sufficiently established that the sale or consumption of
22 cannabis or cannabis products at the event would be consistent with public health or public safety;

23 (3) The applicant has not sufficiently established that the sale or consumption of
24 cannabis or cannabis products at the event would not have adverse impacts on nearby neighborhoods
25 or public spaces;

1 (4) The applicant has provided materially false or incomplete information in support
2 of the application, or has otherwise engaged in conduct that gives the Director cause to doubt the
3 applicant's credibility or good faith;

4 (5) There is insufficient time to process the permit application adequately in advance
5 of the proposed event; or

6 (6) There is other good cause to deny the permit.

7 **(fg) Permit Conditions.** Any applicant awarded a Cannabis Event Permit shall be
8 responsible for ensuring that the temporary event is conducted in compliance with all State and City
9 laws applicable to the sale and consumption of cannabis at the event. The Director may impose any
10 permit conditions that the Director deems conducive to the protection of public health and safety, the
11 mitigation of potential adverse impacts on nearby neighborhoods or public spaces, and the prevention
12 of underage or otherwise unlawful access to cannabis or cannabis products, or that otherwise would be
13 conducive to the safe, lawful, and orderly operation of the proposed event.

14 **(gh) Enforcement and Implementation.** Any or all of the following actions may be taken in
15 conjunction with the implementation or enforcement of this Section 1621.5:

16 (1) The Director may require an event permitted under this Section 1621.5 to cause
17 any sales or consumption of cannabis or cannabis products at the event to cease or otherwise be
18 limited, without delay or within such other timeframe as the Director determines, if the Director
19 determines that such action is necessary to protect public health or safety, or to ensure compliance with
20 applicable State or City laws.

21 (2) The Director may require the holder of a Cannabis Event Permit to expel from
22 the event any participant selling cannabis or cannabis products in a manner inconsistent with
23 applicable State or City laws.

1 (3) Any violation of this Section 1621.5, or of applicable State or City laws, or of
2 any permit condition imposed pursuant to this Section, may be punished as a violation of this Article
3 16, using procedures consistent with Sections 1631 and Section 1632.

4 (4) Any violation of this Section 1621.5, of applicable State or City laws, or of any
5 permit condition imposed pursuant to this Section, may be cause for denial of any application for a
6 Cannabis Business Permit submitted by the holder of the Cannabis Event Permit or by any other party
7 responsible for the violation, for suspension or revocation of any existing Cannabis Event Permit, and
8 for suspension or revocation of any other existing permit to engage in Commercial Cannabis Activity.

9 **(hi) Pilot Program.** Prior to January 1, 2020, the Director may issue Cannabis Event
10 Permits only in connection with events that meet all the following criteria:

11 (1) The event has previously been held on a regular basis;

12 (2) The event, in prior years, has received a City-issued permit; and

13 (3) At the event, in prior years, there has been significant unregulated cannabis
14 sales or consumption, which the Director determines could be reduced or eliminated at the event by the
15 issuance of a Cannabis Events Permit. Except as stated in the following paragraph, the restrictions
16 imposed by this subsection (h) on the operation of this Section 1621.5 shall become inoperative on
17 January 1, 2020.

18 The Director may extend the pilot program set forth in this subsection (h) one or more times, up
19 to December 31, 2021, such that no Cannabis Event Permit may issue except as provided under this
20 subsection (h) prior to the date the Director's extension of the pilot program, if any, ends. The
21 Director may extend the pilot program as provided herein only upon the Director's written
22 determination that, in light of other duties imposed on the Office of Cannabis, the Office lacks sufficient
23 resources to process additional Cannabis Event Permit applications or to otherwise effectively regulate
24 cannabis-related events.

1 (ii) Appeals to Board of Appeals. A decision to grant, deny, suspend, or revoke a permit
2 under this Section 1621.5, or to add or remove a permit condition under this Section, may be appealed
3 to the Board of Appeals in the manner prescribed in Article 1 of the Business and Tax Regulations
4 Code.

5
6 Section 3. Article 2 of the Business and Tax Regulations Code is hereby amended by
7 revising Section 249.20, to read as follows:

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

9 * * * *

10 (g) The Director of the Office of Cannabis shall charge every applicant for a Cannabis
11 Event Permit, as set forth in Section 1621.5 of the Police Code, a one-time non-refundable permit
12 application fee, in the amount set forth below, to recover the costs incurred by the City in processing
13 applications, regulating events, and in connection with other permit-related activities. This fee may be
14 waived once for a verified Equity Applicant or Equity Operator (as defined under Police Code Section
15 1604) that operates a cannabis business as a sole proprietorship or a nonprofit, in connection with a
16 single event, but shall not be waived for any additional events. The amount of this fee shall be as
17 follows:

18 (1) For events with an estimated attendance of 500 or fewer people: \$500;

19 (2) For events with an estimated attendance of 501 –1000 people: \$1,000;

20 (3) For events with an estimated attendance of 1001-2500 people: \$1,500;

21 (4) For events with an estimated attendance of 2500 people or more: \$3,000.

22 Beginning with fiscal year 2020-2021, this fee may be adjusted by the Controller each year on
23 July 1, without further action by the Board of Supervisors. Not later than April 1 of each year, the
24 Controller shall determine whether the current fee has produced or is projected to produce revenues
25 sufficient to support the costs of permit-related activities (including, but not limited to, the processing

1 of applications and the regulation of events), and that the fees will not produce revenue that is
2 significantly more than the costs of providing such services. The Controller shall, if necessary, adjust
3 the fees upward or downward for the upcoming fiscal year as appropriate to ensure that the program
4 recovers the costs of operation without producing revenue that is significantly more than such costs.
5 The adjusted fees shall become operative on July 1.

6
7 Section 4. Article 6 of the Transportation Code is hereby amended by revising Section
8 6.2, to read as follows:

9 * * * *

10 (e) ISCOTT Review and Approval Process. In reviewing an application, ISCOTT
11 shall consider the impact of the temporary use or occupancy of public streets on the traffic,
12 security, health, and safety of the public; determine the traffic, security, health, and safety
13 requirements of the proposed temporary use or occupancy; and evaluate the measures
14 proposed by the applicant to satisfy those requirements. For major events, ISCOTT shall
15 forward the applicant's proposed emergency medical services plan to the Director of
16 Emergency Medical Services and Emergency Operations Section (EMSEO). ISCOTT shall
17 consider the recommendations of EMSEO regarding the proposed emergency medical
18 services plan. It shall be the duty of ISCOTT to also consider the following:

19 (1) Demonstrated ability of the applicant to comply with requirements
20 necessary to protect the safety, health, and welfare of the public, including compliance with
21 the requirements of San Francisco Health Code Article 19L, "Prohibiting Smoking at Certain
22 Outdoor Events," unless those requirements are waived pursuant to Section 1621.5(e) of the
23 Police Code.

24 * * * *

1 Section 45. Effective Date; Retroactivity.

2 (a) This ordinance shall become effective 30 days after enactment. Enactment
3 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or
4 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors
5 overrides the Mayor's veto of the ordinance.

6 (b) If the effective date of this ordinance is after April 20, 2019, this ordinance shall
7 be retroactive to April 20, 2019.

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

10 By:  _____
11 MATTHEW LEE
12 Deputy City Attorney

13 n:\leganas2019\1900337\01340992.docx

FILE NO. 190109

LEGISLATIVE DIGEST

[Police, Business and Tax Regulations, Transportation Codes - Event-Related Cannabis Permits - Application Fee]

Ordinance amending the Police Code to establish procedures for the Office of Cannabis to issue permits authorizing cannabis sales or consumption, or both, in connection with temporary events, and providing a mechanism for the temporary waiver of City laws restricting smoking or cannabis consumption; amending the Business and Tax Regulations Code to establish an application fee for such permits; amending Division I of the Transportation Code to allow for temporary waivers of Article 19L of the Health Code in connection with events approved by ISCOTT; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

In addition to regulating permanent cannabis businesses, State law also establishes a framework regulating the sale and consumption of cannabis at temporary events. Under this regulatory framework, cannabis sales and consumption at temporary events are permissible only if authorized by the local jurisdiction in which the event takes place.

The City has not enacted legislation authorizing or regulating the sale or consumption of cannabis at temporary events. In general, it is unlawful to conduct commercial cannabis activity (including sales) in the City without a City-issued permit. The City's Office of Cannabis is responsible for issuing permits authorizing commercial cannabis activity.

Amendments to Current Law

This ordinance would establish a framework for the Office of Cannabis to authorize and regulate the sale and/or consumption of cannabis at temporary events. In particular, the ordinance would establish a new category of permit, the Cannabis Event Permit, to be issued by the Office of Cannabis. These Cannabis Event Permits could authorize the sale of cannabis to, and/or consumption of cannabis by, adults 21 years of age or older, in connection with temporary events.

The ordinance would limit the circumstances under which the Office of Cannabis could issue Cannabis Event Permits. In particular, OOC could issue a Cannabis Event Permit only to an applicant that already held a State-issued license authorizing the applicant to organize cannabis events. Additionally, if another City department held permitting or other approval authority in connection with a temporary event, OOC could not issue a Cannabis Event Permit without that other City department's consent. Such departments could also, in their discretion, temporarily waive any City law restricting or prohibiting smoking in the proposed event space,

AMENDED IN COMMITTEE
2/27/19

FILE NO. 190109

or any other provision of the Administrative, Health, Park, or Police Codes that would otherwise restrict or prohibit the consumption of cannabis or cannabis products in all or part of the proposed event space. (State law prohibits the consumption of cannabis or cannabis products wherever smoking is prohibited.)

Beyond these mandatory prerequisites for issuance of a Cannabis Event Permit, OOC could exercise its discretion to grant or deny a Cannabis Event Permit based on factors including applicable State and City laws, public health and safety, and community impacts. Each Cannabis Event Permit would require compliance with all applicable State and City laws, and could include other conditions conducive to public health and safety, the mitigation of adverse community impacts, and the prevention of underage access to cannabis, or otherwise conducive to the safe, lawful, and orderly operation of the event. The ordinance also provides for enforcement.

The ordinance would initially establish a pilot program limiting Cannabis Event Permits to events previously permitted by the City on a regular basis, at which there have been significant unregulated cannabis sales or consumption. The pilot program would be scheduled to expire on January 1, 2020, but could be extended by OOC until December 31, 2021.

Background

This version of the legislative digest reflects amendments made in the Budget and Finance Committee on February 27, 2019. Those amendments chiefly provide that (as noted above) City departments with permitting or other approval authority over a temporary event may, in their discretion, temporarily waive any City law restricting or prohibiting smoking in the proposed event space, or any other provision of the Administrative, Health, Park, or Police Codes that would otherwise restrict or prohibit the consumption of cannabis or cannabis products in all or part of the proposed event space. (As noted above, state law prohibits the consumption of cannabis or cannabis products wherever smoking is prohibited.)

n:\legana\as2019\1900337\01341549.docx