

File No. 191174

Committee Item No. _____

Board Item No. 28

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date November 18, 2019

Board of Supervisors Meeting

Date 12/10/2019

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- Youth Commission Report
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OTHER (Use back side if additional space is needed)

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Completed by: Victor Young Date Nov. 14, 2019
 Completed by: Victor Young Date Nov. 25, 2019

1 [~~Various Codes~~Police Code - Cannabis Regulation]

2

3 **Ordinance** amending the Administrative, Police, Health, Planning, Business and Tax
 4 Regulations, and Campaign and Government Codes to change the name of the Office of
 5 Cannabis to the Office of Cannabis Regulation ("Office"); amending the Police Code to,
 6 among other things, 1) create a Cannabis Nursery Permit; 2) prohibit equity applicants
 7 from applying for a Cannabis Business Permit through a cooperative; 3) clarify where
 8 in the processing order the Office will review and process Cannabis Business Permit
 9 applications from holders of Temporary Cannabis Business Permits and Medical
 10 Cannabis Dispensaries; 4) prohibit Cannabis Retailers from using business names
 11 likely to attract minors as customers or mislead the public into believing that the
 12 business is authorized to sell products to minors; 5) remove the requirement that a
 13 Cannabis Business Permit application be denied following any violation of Article 16 of
 14 the Police Code, and instead require permit denial after a refusal to remediate an
 15 Article 16 violation of which they have been notified by the Office; and 6) require
 16 Cannabis Distributors to notify the Office when they learn that Cannabis products in
 17 their possession have failed state testing standards; and affirming the Planning
 18 Department's determination under the California Environmental Quality Act.

19

20

21 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 22 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 23 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 24 **Board amendment additions** are in double-underlined Arial font.
 25 **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:

1
2 Section 1. Environmental Findings.

3 The Planning Department has determined that the actions contemplated in this
4 ordinance comply with the California Environmental Quality Act (California Public Resources
5 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
6 Supervisors in File No. 191174 and is incorporated herein by reference. The Board affirms
7 this determination.
8

9 ~~Section 2. Renaming of Office.~~

10 ~~(a) The Office of Cannabis is renamed the Office of Cannabis Regulation. This name~~
11 ~~change is not intended to change the meaning or substantive effect of any provision in the~~
12 ~~Municipal Code. This name change is implemented throughout the Municipal Code, as stated~~
13 ~~in subsections (b) (g). But in the event the Municipal Code contains any reference to "Office~~
14 ~~of Cannabis," not identified in subsections (b) (g), that term shall be deemed changed to~~
15 ~~"Office of Cannabis Regulation," and the City Attorney shall direct the publisher of the~~
16 ~~Municipal Code to change said term to "Office of Cannabis Regulation."~~

17 ~~(b) The Administrative Code is amended by deleting the term "Office of Cannabis" and~~
18 ~~replacing it with "Office of Cannabis Regulation" in the following Sections: 2A.420 (heading);~~
19 ~~2A.420(a), (b)(1), (b)(3), (b)(7)(A), (b)(7)(E); 2A.421(a), (b); 5.38-3; 5.38-5(e); 5.38-6(a)(1),~~
20 ~~(b); 10.100-162 (heading); and 10.100-162(b).~~

21 ~~(c) The Police Code is amended by deleting the term "Office of Cannabis" and~~
22 ~~replacing it with "Office of Cannabis Regulation" in the following Sections: 1600(k), (l);~~
23 ~~1601(a); 1602 (definitions of "Cannabis Business Registration Period" and "Office");~~
24 ~~1603(a)(1); 1605(a), (b), (c)(1)(A), (c)(1)(C), (d), (d)(5), (d)(6), (j), (k); 1606(a)(6), (c);~~
25

1 1608(b)(2), (d)(1); 1609(b)(19), (j); 1613(b); 1614; 1617(b); 1618(h), (q), (ff)(2); 1621(c)(6);
2 1621.5(i)(3); 1622(a); and 1625(b)(1), (b)(2), (b)(3).

3 (d) ~~The Health Code is amended by deleting the term "Office of Cannabis" and~~
4 ~~replacing it with "Office of Cannabis Regulation" in the following Sections: 8A.2(b);~~
5 ~~1009.23(f)(1); 3311(b)(3), (b)(3)(B)(i); and 3322(d)(5), (d)(7), (f)(1), (f)(2).~~

6 (e) ~~The Planning Code is amended by deleting the term "Office of Cannabis" and~~
7 ~~replacing it with "Office of Cannabis Regulation" in the following Sections: 102 (definition of~~
8 ~~"Cannabis Retail"); 202.2(a)(5)(A), (a)(5)(B), (e)(1)(A), (e)(1)(B); 204.3(a)(3); 210 (Table~~
9 ~~210.3, note 21); and 890.125.~~

10 (f) ~~The Business and Tax Regulations Code is amended by deleting the term "Office of~~
11 ~~Cannabis" and replacing it with "Office of Cannabis Regulation" in the following Sections:~~
12 ~~1.77; 8(e)(9)(E); and 249.20(a), (b), (c), (e), (g).~~

13 (g) ~~The Campaign and Government Code is amended by deleting the term "Office of~~
14 ~~Cannabis" and replacing it with "Office of Cannabis Regulation" in the following Sections: 3.1-~~
15 ~~251.~~

16 Section 23. Article 16 of the Police Code is hereby amended by revising Sections 1602
17 (with new definition placed in correct alphabetical sequence), 1604, 1606, 1607, 1609, 1615,
18 1619, 1626, and 1634, to read as follows:

19
20 **SEC. 1602. DEFINITIONS.**

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

22 * * * *

23 "Cannabis Nursery" has the meaning set forth for the term "Nursery" in California Code of
24 Regulations, Title 3, Division 8, Chapter 1, Sections 8000(w) and 8201(e), as amended from time to
25 time.

1 * * * *

2
3 **SEC. 1604. EQUITY PROGRAM.**

4 * * * *

5 (b) **Equity Applicants.** The Equity Program shall offer priority permit processing, as
6 provided in Section 1606, to an individual who meets the following Equity Criteria ("Equity
7 Applicant"):

8 * * * *

9 (3) Submits an application for a Cannabis Business Permit in any of the following
10 capacities:

11 (A) As the sole owner/operator of the Applicant;

12 (B) As an individual with an ownership interest of at least 40% in the corporate
13 Applicant, and who is also the Chief Executive Officer of the corporate Applicant;

14 (C) As an individual with an ownership interest of at least 51% in the corporate
15 Applicant; *or*

16 (D) As the Executive Director or member of the board of directors of a not-for-
17 profit Applicant where a majority of the members of the board of directors satisfy the
18 requirements of subsections (b)(2) and (4) of this Section 1604; *or and*

19 ~~(E) As an individual with a membership interest in an Applicant formed as a~~
20 ~~*cooperative; and*~~

21 (4) Meets three or more of the additional following criteria:

22 * * * *

23
24 **SEC. 1606. APPLICATIONS FOR CANNABIS BUSINESS PERMITS.**

25 * * * *

1 (c) The Office of Cannabis Regulation shall review and process applications for
2 Cannabis Business Permits in an order that reflects the Applicant's priority category:

3 * * * *

4 (4) Fourth priority: applications from Applicants that were operating in compliance
5 with the Compassionate Use Act of 1996 before September 1, 2016, or that meet the
6 requirements of Section 1606(a)(5), or that hold Temporary Cannabis Business Permits under Section
7 1605(d);

8 * * * *

9
10 **SEC. 1607. CANNABIS BUSINESS PERMITS.**

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

13 * * * *

- 14 (7) Cannabis Retailer; and
15 (8) Delivery-Only Cannabis Retailer; and
16 (9) Cannabis Nursery.

17
18 **SEC. 1609. PERMIT APPLICATIONS.**

19 * * * *

20 (h) **Additional Information Required of Applicants for Storefront Cannabis**
21 **Retailer permits.** In addition to the information required under subsection (b) of this Section
22 1609, an Applicant for a Storefront Cannabis Retailer permit shall also submit as part of its
23 application:

24 * * * *

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

5 (67) If the Applicant intends to Deliver Cannabis or Cannabis Products to
6 Customers, the Applicant shall also provide:

7 * * * *

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

11 * * * *

12 (j) Additional Information Required of Applicants for Cannabis Nursery permits. In addition
13 to the information required under subsection (b) of this Section 1609, an Applicant for a Cannabis
14 Nursery permit shall also submit as part of its application:

15 (1) Copies of all documentation submitted to the State Licensing Authority in support of its
16 application for a license authorizing the operation of a Cannabis Nursery.

17 (2) All documentation and information set forth in subsection (c) of this Section 1609.

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

1
2 **SEC. 1615. ISSUANCE AND DENIAL OF CANNABIS BUSINESS PERMITS.**

3 * * * *

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

6 * * * *

7 (3) The Applicant has otherwise not fully complied with the provisions of this Article
8 16-violated a provision of Article 16, and has failed to come into compliance with Article 16 within a
9 reasonable time, as determined by the Director of the Office of Cannabis Regulation, after receiving
10 notice of the violation from the Director.

11
12 **SEC. 1619. PROHIBITION ON ENTRY BY AND SALES TO UNDERAGE PERSONS;**
13 **PROHIBITION ON MISLEADING BUSINESS NAMES.**

14 * * * *

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

20 (ed) **Positive Bona Fide Proof of Identity Required.** No Storefront Cannabis Retailer,
21 Cannabis Microbusiness, or Delivery-Only Cannabis Retailer may Sell Cannabis or Cannabis
22 Products to any Customer without first examining the Customer's Bona Fide Proof of Age and
23 Identity to confirm that the Customer is at least the minimum age under state law to purchase
24 and possess the Cannabis or Cannabis Product. Review of a Customer's Bona Fide Proof of
25

1 Age must be performed by an employee of the Permittee, in the presence of the prospective
2 Customer.

3 (de) Proof of Physician's Recommendation Required. No Storefront Cannabis
4 Retailer, Cannabis Microbusiness, or Delivery-Only Cannabis Retailer may Sell Medicinal
5 Cannabis or Medicinal Cannabis Products to any Customer without first examining verification
6 that the Customer possesses a valid Physician's Recommendation. Review of a Customer's
7 verification of Physician's Recommendation must be performed by an employee of the
8 Permittee, in the presence of the prospective Customer.

9
10 **SEC. 1626. CANNABIS DISTRIBUTORS.**

11 * * * *

12 (b) **Operating Standards.** In addition to the operating requirements set forth in
13 Section 1618 of this Article 16, a Cannabis Distributor shall comply with the following
14 operating standards:

15 * * * *

16 (3) If a Cannabis Distributor receives notice that any Cannabis or Cannabis Products
17 that are currently or were previously in the Cannabis Distributor's possession, and that were either
18 Cultivated or Manufactured by a Cannabis Business located in San Francisco or intended for possible
19 distribution or sale to a Cannabis Business located in San Francisco, have been tested and have failed
20 any requirements established by state regulation, the Cannabis Distributor shall notify the Department
21 of Public Health and the Office of Cannabis Regulation as soon as practicable, and no later than 48
22 hours after the Cannabis Distributor receives notice of those results. Such notification shall include, to
23 the extent available to the Cannabis Distributor, the name, State license number, and local Permit
24 number of the Manufacturer that provided the Cannabis to be tested, the test results, reason for failure,
25 and any applicable track and trace information.

1
2 **SEC. 1634. ADDITIONAL ADMINISTRATIVE ENFORCEMENT ORDERS.**

3 (a) **Order to Cease Operations Without Permit.** Upon a determination by the
4 Director that any Cannabis Business is operating without all valid, effective, and current
5 permits required by this Article 16, the Director shall issue an Order to Cease Operations
6 Without Permit, which shall be posted prominently on the Premises and mailed to the
7 Cannabis Business. Such Order shall state:

8 (1) The required permits which are lacking;

9 (2) That the Cannabis Business has 24 hours from the time of posting to
10 demonstrate to the Director's satisfaction that the Cannabis Business has the required valid,
11 effective, and current permits;

12 (3) If the Cannabis Business has not made such demonstration within 24 hours
13 of the time of posting, it must cease operations immediately.

14 * * * *

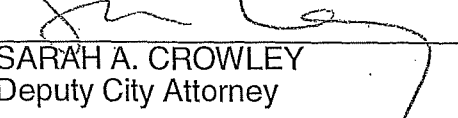
15
16 Section 43. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor's veto of the ordinance.

20
21 Section 54. Scope of Ordinance. Except as stated in Section 3 of this ordinance, in
22 enacting this ordinance, the Board of Supervisors intends to amend only those words,
23 phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts,
24 diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this
25

1 ordinance as additions, deletions, Board amendment additions, and Board amendment
2 deletions in accordance with the "Note" that appears under the official title of the ordinance.

3

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

6 By: 
7 SARAH A. CROWLEY
8 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(11/18/19)

[Police Code - Cannabis Regulation]

Ordinance amending the Police Code to, among other things, 1) create a Cannabis Nursery Permit; 2) prohibit equity applicants from applying for a Cannabis Business Permit through a cooperative; 3) clarify where in the processing order the Office will review and process Cannabis Business Permit applications from holders of Temporary Cannabis Business Permits and Medical Cannabis Dispensaries; 4) prohibit Cannabis Retailers from using business names likely to attract minors as customers or mislead the public into believing that the business is authorized to sell products to minors; 5) remove the requirement that a Cannabis Business Permit application be denied following any violation of Article 16 of the Police Code, and instead require permit denial after a refusal to remediate an Article 16 violation of which they have been notified by the Office; and 6) require Cannabis Distributors to notify the Office when they learn that Cannabis products in their possession have failed state testing standards; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Existing law does not include a San Francisco Cannabis Business Permit category for Cannabis Nursery, although existing state law includes a category of Cannabis Business License for Nursery, at Business & Professions Code Section 26050 and California Code of Regulations Title 3, Division 8, Chapter 1, Sections 8000(w) and 8201(e).

Existing law, at Section 1604(b)(3)(E) of the Police Code, allows an equity Applicant to apply for a Cannabis Business Permit as a member of a cooperative, while state law does not allow an applicant to apply for a state cannabis license as a member of a cooperative.

Existing law, at Section 1606(c) of the Police Code, does not list holders of Temporary Cannabis Business Permits or Medical Cannabis Dispensaries that fall under Section 1606(c)(5) of the Police Code under a specific priority category for Cannabis Business Permit application processing.

Existing law does not place explicit restrictions on business names that may be used by Cannabis Retailers.

Existing law, at Section 1615(d)(3) of the Police Code, requires that a Cannabis Business Permit application be denied following any failure of an Applicant to comply with Article 16.

Existing law does not require Cannabis Distributors to notify the Office if they learn that Cannabis products in their possession have failed state testing standards.

Amendments to Current Law

This ordinance would create a new Cannabis Business Permit type for Cannabis Nursery, mirroring the Nursery license category that exists under state law. The ordinance would add a definition for "Cannabis Nursery" in Section 1602 of the Police Code, and would add requirements for Cannabis Nursery Permit applicants in Section 1609(j) of the Police Code.

This ordinance would delete Section 1604(b)(3)(E) of the Police Code to remove the opportunity for equity Applicants to apply for a Cannabis Business Permit through a cooperative, in order to conform with state law governing cannabis licensing, which no longer allows applicants to apply for a state cannabis license as a member of a cooperative.

This ordinance would amend Section 1606(c)(4) of the Police Code to clarify that Cannabis Business Permit applications from both holders of Temporary Cannabis Business Permits and Medical Cannabis Dispensaries that fall under Section 1606(c)(5) of the Police Code will be processed in the fourth priority category, together with Applicants that were operating in compliance with the Compassionate Use Act of 1996 before September 1, 2016.

This ordinance would amend Sections 1609(h)(6) and 1619(c) of the Police Code to prohibit Cannabis Retailers from using business names likely to attract minors as customers or mislead the public into believing that the business is authorized to sell products to minors.

This ordinance would remove the requirement in Section 1615(d)(3) of the Police Code that a Cannabis Business Permit application be denied following any failure to comply with Article 16, and would instead require the Director of the Office of Cannabis Regulation to deny an application after an Applicant has been put on notice of an Article 16 violation by the Director and has failed to remedy the violation within a reasonable time, as determined by the Director.

This ordinance would require that Cannabis Distributors notify the Office within 48 hours or learning that Cannabis products in their possession failed state testing standards.

Background Information

The original version of this ordinance, introduced on October 1, 2019, included provisions renaming the Office of Cannabis the "Office of Cannabis Regulation," in addition to the provisions described above. The ordinance was amended in the Rules Committee hearing on November 18, 2019, to delete the provisions renaming the Office of Cannabis.

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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

October 10, 2019

File No. 190965

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

Dear Ms. Gibson:

On October 1, 2019, the following legislation was introduced:

File No. 190965

Ordinance amending the Administrative, Police, Health, Planning, Business and Tax Regulations, and Campaign and Government Codes to change the name of the Office of Cannabis to the Office of Cannabis Regulation ("Office"); amending the Police Code to 1) create a Cannabis Nursery Permit; 2) prohibit equity applicants from applying for a Cannabis Business Permit through a cooperative; 3) clarify where in the processing order the Office will review and process Cannabis Business Permit applications from holders of Temporary Cannabis Business Permits and Medical Cannabis Dispensaries; 4) prohibit Cannabis Retailers from using business names likely to attract minors as customers or mislead the public into believing that the business is authorized to sell products to minors; 5) remove the requirement that a Cannabis Business Permit application be denied following any violation of Article 16 of the Police Code, and instead require permit denial after a refusal to remediate an Article 16 violation of which they have been notified by the Office; 6) require Cannabis Distributors to notify the Office when they learn that Cannabis products in their possession have failed state testing standards; 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



By: Victor Young, Clerk
Rules Committee

Attachment

- c: Devyani Jan, Environmental Planning
- Joy Navarrete, Environmental Planning
- Laura Lynch, Environmental Planning
- Don Lewis, Environmental Planning

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

joy navarrete

Digitally signed by Joy Navarrete
DN: dc=org, dc=sfgov, dc=cityplanning,
ou=CityPlanning, ou=Environmental
Planning, cn=joy navarrete,
email=joy.navarrete@sfgov.org
Date: 2019.10.17 17:11:38 -07'00'



SAN FRANCISCO
OFFICE OF CANNABIS

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 SEP 23 AM 11:47
BY AK

September 23, 2019
Ms. Angela Calvillo
1 Dr. Carlton B. Goodlett Place City Hall
Room 244 San Francisco
CA 94102-4689

Ms. Calvillo,

I would like to submit the attached legislation for purposes of amending the following codes and affirming the Planning Department's determination of the California Environmental Quality Act:

1. Amend the Administrative Code, Police Code, Health Code, Planning Code, and Business and Tax Regulations Code to change the name of the Office of Cannabis to the Office of Cannabis Regulation;
2. Amend the Police Code to add a new permit type for Cannabis Nursery, in conformance with the state licensing structure;
3. Amend the Police Code to remove the opportunity for equity applicants to apply for a Cannabis Business Permit through a cooperative, in conformance with state law changes;
4. Amend the Police Code to clarify that the Office of Cannabis will review and process applications for Cannabis Business Permits from holders of Temporary Cannabis Business Permits in the fourth priority category, under section 1606(c)(4);
5. Amend the Police Code to prohibit Cannabis Retailers from using business names likely to mislead the public into believing that the Cannabis Retailer is a business authorized to sell products to minors, or likely to entice minors to patronize the business;
6. Amend the Police Code to remove the requirement that a Cannabis Business Permit application be denied following any violation of Article 16 of the Police Code, and instead requiring permit denial after a refusal to remediate an Article 16 violation of which they have been placed on notice by the Office of Cannabis;
7. Amend the Police Code to require Cannabis Distributors to notice the Office of Cannabis when they learn that Cannabis products in their possession have failed state testing standards;
8. Affirm the Planning Department's determination under the California Environmental Quality Act.

The following items are attached:

1. Ordinance - signed by the city attorney's office (original plus 2 copies)
2. Legislative Digest (2 copies)

Electronic versions of the attached documents have been submitted via email.
Thank you for your time.

Naomi M. Kelly
City Administrator
City and County of San Francisco