

1 [Planning Code - Exemption from Neighborhood Notification and Review Requirements for  
2 Grandfathered Medical Cannabis Dispensaries Converting to Cannabis Retail]

3 **Ordinance amending the Planning Code to exempt Grandfathered Medical Cannabis**  
4 **Dispensaries that convert to Cannabis Retail Uses from neighborhood notification and**  
5 **review requirements; affirming the Planning Department’s determination under the**  
6 **California Environmental Quality Act; making findings of consistency with the General**  
7 **Plan, and the eight priority policies of Planning Code, Section 101.1; and making public**  
8 **necessity, convenience, and welfare findings under Planning Code, Section 302.**

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

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

17 Section 1.

18 (a) The Planning Department has determined that the actions contemplated in this  
19 ordinance comply with the California Environmental Quality Act (California Public Resources  
20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
21 Supervisors in File No. 210452 and is incorporated herein by reference. The Board affirms  
22 this determination.

23 (b) On July 15, 2021, the Planning Commission, in Resolution No. 20940, adopted  
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
25 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. 210452, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the  
4 actions contemplated in this ordinance will serve the public necessity, convenience, and  
5 welfare for the reasons set forth in Planning Commission Resolution No. 20940, which are  
6 incorporated herein by reference.

7  
8 Section 2. The Planning Code is hereby amended by revising Sections 190 and 311,  
9 to read as follows:

10 **SEC. 190. CONVERSION OF MEDICAL CANNABIS DISPENSARIES TO**  
11 **CANNABIS RETAIL ESTABLISHMENTS.**

12 (a) **Conversion of MCDs with Planning Commission Approval to Cannabis Retail**  
13 **Uses.**

14 (1) An establishment may convert from the prior authorized Use at the property  
15 to a Cannabis Retail Use by obtaining a building permit authorizing the change of Use, if the  
16 establishment (to be termed a “Grandfathered MCD”) satisfies one of the following three  
17 criteria:

18 (A) holds a valid final permit from the Department of Public Health to  
19 operate as a Medical Cannabis Dispensary, pursuant to Section 3307 of the Health Code, as  
20 of January 5, 2018;

21 (B) holds an approval for a Medical Cannabis Dispensary Use from the  
22 Planning Department as of January 5, 2018; or

23 (C) submitted a complete application for a permit from the Department  
24 of Public Health to operate as a Medical Cannabis Dispensary by July 20, 2017, and receives  
25 a final permit.

1 (2) A Grandfathered MCD converting to a Cannabis Retail Use pursuant to this  
2 Section 190 is not subject to

3 (A) a Conditional Use Authorization requirement for Cannabis Retail  
4 Uses in the zoning district in which it is located;~~or~~

5 (B) the locational restrictions for Cannabis Retail set forth in Section  
6 202.2(a);~~;~~

7 (C) the requirements of Section 311; or

8 (D) an application for discretionary review; provided however, that the Planning  
9 Commission or Planning Department staff may initiate discretionary review.

10 (3) A Grandfathered MCD is subject to all other Planning Code requirements;  
11 ~~including but not limited to the neighborhood notification requirement of Section 311.~~

12 (b) **Establishment of Cannabis Retail Uses at Sites with MCD Applications**  
13 **Pending Before the Planning Commission.**

14 (1) For the purposes of this subsection (b), a Pending MCD Applicant is an  
15 applicant that submitted a complete application to the Department of Public Health to operate  
16 a Medical Cannabis Dispensary by July 20, 2017, but that did not receive a permit or  
17 authorization from the Planning Department to operate such Use as of January 5, 2018, and  
18 that qualifies as either an Equity Applicant or an Equity Incubator pursuant to Section 1604 of  
19 the Police Code.

20 (2) A Pending MCD Applicant may establish a Cannabis Retail Use at the  
21 property where the application to operate a Medical Cannabis Dispensary was proposed by  
22 obtaining building permit authorization for the change of use.

23 (3) Except as specified in this subsection (b), a Pending MCD Applicant that  
24 obtains a change of use permit for a Cannabis Retail Use is subject to all Planning Code  
25 requirements, including but not limited to the neighborhood notification requirement set forth in

1 Section ~~312~~311 and Conditional Use Authorization if required for a Cannabis Retail Use by the  
2 zoning district in which the property is located.

3 (4) A Pending MCD Applicant is not subject to the minimum radius requirement  
4 between Cannabis Retailers or between a Cannabis Retailer and a Medicinal Cannabis  
5 Retailer, as set forth in subsection 202.2(a), but is subject to all other locational requirements  
6 for Cannabis Retail set forth in subsection 202.2(a).

7 \* \* \* \*

8  
9 **SEC. 311. PERMIT REVIEW PROCEDURES.**

10 (a) **Purpose.** The purpose of this Section 311 is to establish procedures for reviewing  
11 building permit applications to determine compatibility of the proposal with the neighborhood  
12 and for providing notice to property owners and residents on the site and neighboring the site  
13 of the proposed project and to interested neighborhood organizations, so that concerns about  
14 a project may be identified and resolved during the review of the permit.

15 (b) **Applicability.** Except as indicated *herein in this subsection (b)*, all building permit  
16 applications in Residential, NC, NCT, and Eastern Neighborhoods Mixed Use Districts for a  
17 change of use; establishment of a Micro Wireless Telecommunications Services Facility;  
18 establishment of a Formula Retail Use; demolition, new construction, or alteration of buildings;  
19 and the removal of an authorized or unauthorized residential unit, shall be subject to the  
20 notification and review procedures required by this Section 311. In addition, *with the exception*  
21 *of Grandfathered MCDs converting to Cannabis Retail use pursuant to Section 190(a)*, all building  
22 permit applications that would establish Cannabis Retail or Medical Cannabis Dispensary  
23 uses, regardless of zoning district, shall be subject to the *notification and* review procedures  
24 required by this Section 311. Notwithstanding the foregoing or any other requirement of this  
25 Section 311, a change of use to a Child Care Facility, as defined in Section 102, shall not be

1 subject to the review requirements of this Section 311. Notwithstanding the foregoing or any  
2 other requirement of this Section 311, building permit applications to construct an Accessory  
3 Dwelling Unit pursuant to Section 207(c)(6) shall not be subject to the notification or review  
4 requirements of this Section 311. Notwithstanding the foregoing or any other requirement of  
5 this Section 311, a change of use to a principally permitted use in an NC or NCT District, or in  
6 a limited commercial use or a limited corner commercial use, as defined in Sections 186 and  
7 231, respectively, shall not be subject to the review or notice requirements of this Section 311.

8 (1) **Change of Use.** Subject to the foregoing provisions of subsection (b), ~~For~~  
9 purposes of this Section 311, a change of use is defined as follows:

10 (A) **Residential, NC, and NCT Districts.** For all Residential, NC, and  
11 NCT Districts, a change of use is defined as a change to, or the addition of, any of the  
12 following land uses as defined in Section 102 of this Code: Adult Business, Bar, Cannabis  
13 Retail, General Entertainment, Group Housing, Limited Restaurant, Liquor Store, Massage  
14 Establishment, Medical Cannabis Dispensary, Nighttime Entertainment, Outdoor Activity Area,  
15 Post-Secondary Educational Institution, Private Community Facility, Public Community  
16 Facility, Religious Institution, Residential Care Facility, Restaurant, School, Tobacco  
17 Paraphernalia Establishment, Trade School, and Wireless Telecommunications Facility. A  
18 change of use from a Restaurant to a Limited-Restaurant shall not be subject to the provisions  
19 of this Section 311. Any accessory massage use in the Ocean Avenue Neighborhood  
20 Commercial Transit District shall be subject to the provisions of this Section 311. A change of  
21 use to a principally permitted use in an NC or NCT District, or in a limited commercial use or a  
22 limited corner commercial use, as defined in Sections 186 and 231, respectively, shall not be  
23 subject to the provisions of this Section 311.

24 (i) **Exception.** Notwithstanding subsection 311(b)(1)(A), in the  
25 geographic areas identified in subsection 311(b)(1)(A)(ii), building permit applications for a

1 change of use to the following uses shall be excepted from the provisions of subsections  
2 311(d) and 311(e): Bar, General Entertainment, Limited Restaurant, Liquor Store, Massage  
3 Establishment, Nighttime Entertainment, Outdoor Activity Area, Private Community Facility,  
4 Public Community Facility, Restaurant, and Tobacco Paraphernalia Establishment.

5 (ii) Subsection 311(b)(1)(A)(i) shall apply to Neighborhood  
6 Commercial Districts in the following geographic areas:

7 **Area 1:** shall comprise all of that portion of the City and County commencing at the  
8 point of the intersection of the shoreline of the Pacific Ocean and a straight-line extension of  
9 Lincoln Way, and proceeding easterly along Lincoln Way to 17th Avenue, and proceeding  
10 southerly along 17th Avenue to Judah Street, and proceeding westerly along Judah Street to  
11 19th Avenue, and proceeding southerly along 19th Avenue to Sloat Boulevard, and  
12 proceeding westerly along Sloat Boulevard, and following a straight-line extension of Sloat  
13 Boulevard to the shoreline of the Pacific Ocean and proceeding northerly along said line to the  
14 point of commencement.

15 **Area 2:** shall comprise all of that portion of the City and County commencing at the  
16 point of the intersection of Junipero Serra Boulevard and Brotherhood Way, and proceeding  
17 northerly along the eastern edge of Junipero Serra Boulevard to Garfield Street, and  
18 proceeding easterly along Garfield Street to Grafton Avenue, and continuing easterly along  
19 Grafton Avenue to Mount Vernon Avenue, and proceeding easterly along Mount Vernon  
20 Avenue to Howth Street, and proceeding northerly along Howth Street to Geneva Avenue,  
21 and proceeding easterly along Geneva Avenue to Interstate 280, and proceeding northerly  
22 along Interstate 280 to the straight-line extension of Tingley Street, and proceeding southerly  
23 along said line to Tingley Street, and proceeding southerly along Tingley Street to Alemany  
24 Boulevard, and proceeding easterly along Alemany Boulevard to Congdon Street, and  
25 proceeding southerly along Congdon Street to Silver Avenue, and proceeding easterly along

1 Silver Avenue to Madison Street, and proceeding southerly along Madison Street to Burrows  
2 Street, and proceeding westerly along Burrows Street to Prague Street, and proceeding  
3 southerly along Prague Street to Persia Avenue, and proceeding westerly along Persia  
4 Avenue to Athens Street, and proceeding southerly along Athens Street to Geneva Avenue,  
5 and proceeding easterly along Geneva Avenue to the intersection of Geneva Avenue and  
6 Carter Street, and proceeding westerly along the southeastern boundary of Census Tract  
7 0263.02, Block 3005 to the San Francisco/San Mateo county border, and proceeding westerly  
8 along the San Francisco/San Mateo county border to Saint Charles Avenue, and proceeding  
9 northerly along Saint Charles Avenue to Interstate 280, and proceeding northeasterly along  
10 Interstate 280 to a northerly straight-line extension to Orizaba Avenue, and proceeding  
11 northerly along said line to Alemany Boulevard, and proceeding westerly along Alemany  
12 Boulevard to Brotherhood Way, and proceeding westerly along Brotherhood Way to the point  
13 of commencement.

14 (iii) **Exception for the Ocean Avenue Neighborhood**

15 **Commercial Transit District.** Notwithstanding subsection 311(b)(1)(A), building permit  
16 applications in the Ocean Avenue Neighborhood Commercial Transit District for a change of  
17 use to the following uses shall be excepted from the provisions of subsections 311(d) and  
18 311(e): General Entertainment, Limited Restaurant, Nighttime Entertainment, Outdoor Activity  
19 Area, Private Community Facility, Public Community Facility, Restaurant, and Tobacco  
20 Paraphernalia Establishment.

21 (B) **Eastern Neighborhood Mixed Use Districts.** In all Eastern  
22 Neighborhood Mixed Use Districts a change of use shall be defined as a change in, or  
23 addition of, a new land use category. A “land use category” shall mean those categories used  
24 to organize the individual land uses that appear in the use tables, immediately preceding a  
25 group of individual land uses, including but not limited to the following: Residential Use;

1 Institutional Use; Retail Sales and Service Use; Assembly, Recreation, Arts and  
2 Entertainment Use; Office Use; Live/Work Units Use; Motor Vehicle Services Use; Vehicle  
3 Parking Use; Industrial Use; Home and Business Service Use; or Other Use.

4 \* \* \* \*

5  
6 Section 3. Effective Date. This ordinance shall become effective 30 days after  
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
9 of Supervisors overrides the Mayor’s veto of the ordinance.

10  
11 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
15 additions, and Board amendment deletions in accordance with the “Note” that appears under  
16 the official title of the ordinance.

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

21 By: /s/ Victoria Wong  
22 VICTORIA WONG  
23 Deputy City Attorney

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