



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JULY 20, 2017

EXPIRATION DATE: AUGUST 10, 2017

Project Name: **Medical Cannabis Dispensaries in Supervisorial District 11**
Case Number: **2017-006196PCA** [Board File No. 170516]
Initiated by: Supervisor Safai / Introduced May 2, 2017
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time.

The Way It Is Now:

In Supervisorial District 11 (D11) Medical Cannabis Dispensaries (MCDs) are regulated according to the Neighborhood Commercial District (NCD) in which they are located. These controls include a Mandatory Discretionary Review hearing for MCDs in those portions of the NC-2, NC-3, NC-S, NCT-2 and NCT-3 Districts in D11. For those portions of the Ocean Avenue NCT in D11 and for the Excelsior Outer Mission NCD, an MCD proposing to locate within 500 feet of another MCD requires Conditional Use authorization; otherwise a Mandatory Discretionary Review is required.

The Way It Would Be:

In addition to the existing NCD controls on MCDs, no more than three MCDs would be permitted at any given time in D11.

BACKGROUND

As a response to the growing number of Medical Cannabis Dispensaries (MCD) operating in San Francisco, the City enacted the Medical Cannabis Act (the Act).¹ The Act, effective December 30, 2005, established the City's regulatory framework for MCDs. This included designating the Department of Public Health (DPH) as the lead permitting agency. The Act also amended the City's land use regulations to assure the compatibility of MCDs with their surroundings.

¹ Ordinance 275-05:

<https://sfgov.legistar.com/View.ashx?M=F&ID=2576922&GUID=5365CFC3-B9AA-47C7-98B7-1543398E16A8>

MCDs are prohibited from locating in most Residential and all industrial zoning districts. In districts that control uses by story, such as the NCDs and Chinatown Mixed Use Districts, MCDs are allowed only at the first story. All MCDs must be located at least 1,000 feet from a school or other facility primarily serving individuals younger than 18 years. They also cannot be located on a parcel offering State certified/licensed or DPH funded substance abuse services or in locations serving alcohol for on- or off-site consumption. Finally, the Act required Planning Commission review of every MCD, generally through the Discretionary Review (DR) process.

Citywide Concentration of MCDs and proposed MCDs

As of July 2017 there are 46 MCDs either in operation or with land use approvals in San Francisco. These MCDs are dispersed throughout every Supervisorial District, except in District Four.² There are approximately four MCDs on average per Supervisorial District.

The Planning Department is currently reviewing 16 MCD applications. The majority of these pending applications are in two Supervisorial Districts, which are District Four (five applications) and District Six (nine applications).

TABLE 1: MCDs BY SUPERVISORIAL DISTRICT, JULY 2017

Supervisorial District	MCDs in Operation or Approved	MCD Applications in Review
1	1	0
2	1	0
3	11	0
4	0	5
5	2	0
6	15	6
7	2	0
8	2	0
9	7	1
10	2	2
11	3	2

ISSUES AND CONSIDERATIONS

MCDs in Supervisorial District 11

Three MCDs are located in D11, all within the Excelsior Outer Mission Street NCD.³ Two of these three are clustered within eighty feet of one another, intensifying any negative impacts of MCDs upon a small

² Exhibit B: Map of Pending and Permitted MCDs

³ MCDs are located at 5234 Mission Street, 5238 Mission Street and 4218 Mission Street.

stretch of the Excelsior Outer Mission Street NCD. D11 also borders San Mateo County, which does not allow MCDs. This may make locating an MCD within the Excelsior Outer Mission Street NCD particularly attractive for operators looking to serve residents of San Mateo County. Only Supervisorial District 10 has comparable proximity to San Mateo County.

In comparison to other supervisorial districts, D11 has an average number of permitted or operating MCDs. Supervisorial District Six has the highest number of permitted or operating MCDs, at 15, followed by Supervisorial District 3 at 11. Supervisorial District Six also has the highest number of MCD permits under Planning Department review, at six. In comparison, D11 has two under Planning Department review.⁴

Adult Use Cannabis Task Force

Ordinance 115-15, effective August 2015, established the Cannabis State Legalization Task Force (Task Force).⁵ The Task Force's stated purpose is to advise the Mayor, the Board of Supervisors and other City departments on issues concerning the legalization of the adult use and possession of cannabis. The Task Force's establishment was done in anticipation of the approval of California State Proposition 64, Control, Regulate, and Tax Adult Use of Marijuana (The Adult Use of Marijuana Act).⁶ The Adult Use of Marijuana Act passed in November 2016, garnering 57% of votes in support.⁷

The Task Force began meeting in January 2016 with intentions to meet over a two year period. The first year the Task Force held public monthly meetings and developed a report encompassing eighty recommendations.⁸ The recommendations are organized into three categories: Public Safety and Social Environment; Land Use and Social Justice; and Regulation and City Agency Framework.

For the Land Use and Social Justice category, the Task Force's recommendations addressed zoning approaches to retail and non-retail cannabis as well as approval processes for MCDs. The Task Force put forth 14 recommendations in these areas. Among them include ideas to:

- change the definition of sensitive uses;
- change how buffers between sensitive uses and cannabis uses as well as between cannabis retailers are measured;
- changes to entitlement processes for cannabis uses; and
- creating an entitlement paths for MCDs transitioning to the adult use market.

⁴ Pending MCD applications located at 5978 Mission Street and 4130 Mission Street.

⁵ Ordinance 115-15:

<https://sfgov.legistar.com/View.ashx?M=F&ID=3873579&GUID=1BAFED02-E19A-4AC4-8F96-3BB268939F5B>

⁶ The Adult Use of Marijuana Act:

[https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20\(Marijuana\)_1.pdf](https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20(Marijuana)_1.pdf)

⁷ [https://ballotpedia.org/California_Proposition_64,_Marijuana_Legalization_\(2016\)](https://ballotpedia.org/California_Proposition_64,_Marijuana_Legalization_(2016))

⁸ San Francisco State Cannabis Legalization Task Force: Year 1 Report and Recommendations:

<https://www.sfdph.org/dph/files/csl/Mtg10-CLTF-Yr1-Rpt.pdf>

Interim Zoning Controls

Interim zoning controls are used to suspend the approval of building permits or other land use authorizations for a defined period of time. These are imposed to assure that the existing planning and legislative processes do not undermine a larger legislative scheme under consideration. The Planning Code authorizes the Board of Supervisors or the Planning Commission to impose interim controls for an 18 month period. It also affords an additional six month extension of the interim controls, if needed.⁹

On May 15, 2015, the Board of Supervisors enacted a resolution (Enactment Nos. 015-17) that imposed interim zoning controls to require Conditional Use authorization for indoor Agriculture uses, as defined in Planning Code Section 102, and other indoor Agriculture uses in Production, Distribution and Repair (PDR) zoning districts. The interim controls were established to last for six months from the effective date.

The Interim Controls were passed to help protect the City's existing industrial spaces from being over concentrated with commercial cannabis cultivation facilities. The interim controls state that an over-concentration of commercial cannabis cultivation businesses may have a negative impact on the character of neighborhoods within PDR zoning districts. Further, the rush to secure growing space within the City in anticipation of the legalization of adult use cannabis may also displace existing industrial activities, and lead to the erosion of San Francisco's diverse industrial sector. The interim controls were put in place to provide the City time to study the issue of cannabis cultivation, and decide if additional regulations on cannabis cultivation in San Francisco are needed.

Interim Moratoria

Similar to interim controls, the Board may also institute an interim moratorium. An interim moratorium is different than interim controls in that it explicitly prohibits a use. Whereas an interim control may require conditional use authorization for a particular use, an interim moratorium would prohibit that use completely.

Per California General Government Code Section 65858, interim moratoriums are intended to protect the public safety, health, and welfare, and may include measures that prohibit any uses that may be in conflict with a contemplated general plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying within a reasonable time. Interim Controls are considered "urgency measures" and require a four-fifths vote of the Board of Supervisors for adoption. The interim controls are only effective for 45 days from its date of adoption; however, the Board may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Not more than two extensions may be adopted.

Within 25 days of the enactment of interim controls, the Planning Department shall submit to the Clerk of the Board of Supervisors a written report describing the measures taken to alleviate the conditions that led to the adoption of the ordinance. Once the report is received, the Clerk is required to calendar a motion for the full Board of Supervisors to consider and approve the report. This hearing and action is required to occur no later than 35 days after this ordinance is effective.

Developing Controls for Adult Use Cannabis

⁹ Planning Code Section 306.7

Since November 2016, the City has been studying how to regulate the cannabis industry once it's legal for cannabis to be grown and sold for adult use on January 1, 2018. On November 9, 2016 Mayor Ed Lee issued executive Directive 16-05 in response to the passage of Proposition 64: The Adult Use of Marijuana Act. Among other things, that directive instructed the Director of Planning and the Director of Public Health, in consultation with other relevant Departments heads, to draft an ordinance for the Board of Supervisor's consideration that address aspects of Proposition 64, which includes but is not limited to:

- **Land Use:** Where will cultivation, manufacturing, and sales of cannabis be allowed and disallowed, and under what conditions?
- **Local Licenses:** How should the City's local licensing process be structured?
- **Safety:** Should the City change any laws regarding where or how cannabis may be consumed in public places?
- **Youth Access:** how can the City prevent diversion and sales to under-age youth?

Since that directive was issued, the various City departments in the directive have been meeting regularly to discuss the issues around cannabis outlined in the memo. Based on those meetings, the City Attorney's office has started to draft a series of ordinance that would create a regulatory structure for the cannabis industry in San Francisco, including an ordinance that would create the Office of Cannabis, which would regulate the cannabis industry in San Francisco. The intention is to have these controls introduced at the Board of Supervisors by early to mid-September so that the permanent controls can become effective by January 1, 2018. The study of this will continue through the legislative process; the City will continue to refine the permanent controls as we receive further input from the Board of Supervisors, the Cannabis Taskforce, members of the public, and other stakeholders.

General Plan Compliance

The proposed Ordinance is supported by the following General Plan Objectives and Policies in the Commerce and Industry Element:

- Objective 1: Manage Economic Growth and Change to Ensure Enhancement of the Total City Living and Working Environment.
Policy 1.1: Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.
- Objective 2: Maintain and Enhance a Sound and Diverse Economic Base and Fiscal Structure for the City.
Policy 2.3: Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.
- 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.

The Ordinance proposes to amend the MCD regulations in D11 to cap the number of MCDs to three at any given time. This proposed amendment can help discourage an overconcentration of MCDs which, in

that supervisorial district, may have undesirable consequence that cannot be mitigated. The proposed amendment can also help maintain a balance of uses within D11, increasing its desirability as a location for firms and residents alike. This balance also allows the spaces for uses providing neighborhood-serving goods to locate in the NCDs in D11.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Propose a Citywide interim moratorium on the approval of MCD applications until the City adopts new MCD regulations informed by the forthcoming Adult Use Cannabis controls.

BASIS FOR RECOMMENDATION

The Department supports the underlying intention of the proposed Ordinance, which is to preserve neighborhood character and ensure that the neighborhood commercial districts in D11 have a diversity of goods and services. The Department recognizes that D11 is situated along the City's southern border, providing an ideal location for MCDs wanting to service San Mateo County. However, the City is in the midst of developing new adult use cannabis controls, which will ultimately help inform new MCD controls. Further, it is likely that a new use definition will be established for adult cannabis retail and many MCDs will want to convert to this new use to increase their customer base. If that is the case, then a cap on MCDs will not solve this issue. In that respect the Department believes that permanent controls should wait until a broader approach to reforming MCD regulations is developed.

Recommendation 1: Propose a Citywide interim moratorium on the approval of MCD applications until the City adopts new MCD regulations informed by the forthcoming Adult Use Cannabis controls. The City is in the process of developing a regulatory framework for adult use cannabis. This end product will be a package of legislative proposals for introduction by the Board of Supervisors in early September. Any changes to MCD controls should either be informed by this legislative proposal or be included in them. In this situation the Department finds that an interim zoning moratorium is the appropriate tool to prevent new MCDs from being authorized in D11 and throughout the City, while the new adult use cannabis rules make their way through the legislative process.

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 not impact our current implementation procedures.

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

As of the date of this report, the Planning Department received one letter from the Small Business Commission (SBC). The SBC recommends that the Board of Supervisors not approve the proposed Ordinance for the following reasons:

- It is prudent to wait for proposed Ordinances regulating the Adult Use of Cannabis prior to amending current regulations on MCDs;
- The proposed Ordinance would impede the entry of exemplary MCDs into D11;
- The proposed Ordinance does nothing to address grievances with existing MCD operators in D11; and
- A cap on MCDs in D11 will push them to other supervisorial districts, requiring patients to travel further and potentially creating other issues such as increased traffic congestion.

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Map: Pending and Permitted MCDs
- Exhibit C: Letters of Support/Opposition
- Exhibit D: Board of Supervisors File No. 170516



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution HEARING DATE JULY 20, 2017

Project Name: Medical Cannabis Dispensaries in Supervisorial District 11
Case Number: 2017-006196PCA [Board File No. 170516]
Initiated by: Supervisor Safai / Introduced May 2, 2017
Staff Contact: Diego R Sánchez, Legislative Affairs
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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO LIMIT THE NUMBER OF MEDICAL CANNABIS DISPENSARIES IN SUPERVISORIAL DISTRICT 11 TO THREE AT ANY GIVEN TIME; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIEIS OF PLANNING CODE, SECTION 101.1; AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE PURSUANT TO PLANNING CODE, SECTION 302.

WHEREAS, on May 2, 2017 Supervisor Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 170516, which would amend the Planning Code to limit the number of medical cannabis dispensaries in Supervisorial District 11 to three at any given time;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 20, 2017; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; 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 recommends that the Board of Supervisors **approve with modifications** the proposed ordinance.

Those modifications include:

1. Propose a Citywide interim moratorium on the approval of MCD applications until the City adopts new MCD regulations informed by the forthcoming Adult Use Cannabis controls.

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 existing MCD regulatory framework needs reconsideration. The existing framework is now over 10 years old and the adult use and possession of cannabis is legal.
2. The Commission also recognizes that the City is in the process of developing a regulatory framework for Adult Use Cannabis. The end product will be a package of legislative proposals for introduction by the Board of Supervisors in early September 2017.
3. In this context, the Commission finds that an interim moratorium on the approval of MCD applications until the City adopts new MCD regulations informed by forthcoming Adult Use Cannabis controls is preferable to a piecemeal approach singling out a specific geography.
4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are 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 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance will help provide time for the City to determine what types of cannabis related uses provide substantial net benefits to the City and its Neighborhood Commercial Districts.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance will help provide time for the City to determine the types of cannabis related uses most appropriate of particular locations, thereby maintaining a favorable social and cultural climate that enhances its attractiveness as a firm location.

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.

The proposed Ordinance will help provide time for the City to determine the types of cannabis related uses most appropriate of particular locations, helping to recognize and encourage the diversity among its neighborhood commercial districts.

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 have a beneficial 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 as the Ordinance proposes to modify controls on MCDs.

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 and will have a beneficial effect on neighborhood character as the Ordinance proposes to modify regulations on MCDs.

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 as the Ordinance proposes to modify regulations on MCDs.

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 as the Ordinance proposes to modify regulations on MCDs.

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 as the Ordinance proposes to modify regulations on MCDs.

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 as the Ordinance proposes to modify regulations on MCDs.

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 as the Ordinance proposes to modify regulations on MCDs.

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 as the Ordinance proposes to modify regulations on MCDs.

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 recommends that the Board ADOPT the proposed Ordinance with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 20, 2017.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: July 20, 2017



CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

OFFICE OF SMALL BUSINESS
REGINA DICK-ENDRIZZI, DIRECTOR

July 11, 2017

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 170516 [Planning Code - Medical Cannabis Dispensaries in Supervisorial District 11]

Small Business Commission Recommendation to the Board of Supervisors: **Do not approve**

Dear Ms. Calvillo,

On July 10, 2017, the Small Business Commission voted unanimously (6-0, 1 absent) to recommend that the Board of Supervisors not approve BOS File No. 170516.

The proposed legislation would limit the number of medical cannabis dispensaries (MCDs) in District 11 to three at any given time. Three MCDs are currently in operation in District 11; therefore, this legislation would prevent any new MCDs from opening unless one of the three businesses closes.

The Small Business Commission expressed concern in the following areas:

1. The commercial sale of medicinal and adult use cannabis will be regulated in the State of California beginning on January 1, 2018. State rules and regulations are to be released soon. The City & County of San Francisco is presently working to draft local laws. Pursuant to Executive Directive 16-05, City departments shall provide draft ordinances to the Mayor and Board of Supervisors by September 1, 2017. The Commission noted that it would be prudent to first review the forthcoming ordinances.
2. The sponsor's office and speakers articulated a number of grievances and noted that they are not against the cannabis industry itself; their grievances pertain to the irresponsible operators. They discussed one MCD operator in the district who makes positive contributions to the community and whose practices are considered exemplary. The Commission noted that the legislation would unfairly single out the legal medical cannabis industry and impede other exemplary MCDs from opening in District 11.
3. By limiting the total number of MCDs to three, the proposed legislation would actually be counterproductive to its stated objectives. Rather than addressing grievances with the two offending operators in District 11 or seeking punitive measures, the proposed limit would instead protect and promote them by creating an oligopoly: three businesses would dominate the cannabis market in the district.
4. The proposed legislation would further skew the distribution of MCDs in the City. District 11 presently has a relatively small number of MCDs. Other districts, such as Districts 3 and 6 have at least 10 MCDs in operation and additional applications under review (see table on next page). A cap of three in District 11 would push new businesses to other districts; patients whose needs are not served by the three existing businesses would need to travel to other districts, potentially creating other issues (such as increased congestion).

Commissioners reviewed election data while preparing to consider the proposed legislation. Past election data demonstrates that the majority of voters support cannabis in District 11. Proposition 215, which opened the door for MCDs, passed in 1996 with the support of 68% of voters in Excelsior and Ingleside. In 2016, 59% of voters in District 11 supported the passage of Proposition 64 to legalize the commercial sale of adult use (non-medical) cannabis. One would expect equal or stronger support for medical cannabis than for adult use cannabis.

The Commission encourages Supervisor Safai to explore solutions that would more appropriately address the concerns raised by constituents without restricting economic activity or consumers’ ability to access a dispensary. One solution might be to urge the Department of Public Health to require the problematic operators to rectify the situation as a condition of maintaining the permit. The Entertainment Commission had issues with problematic businesses in the past and utilized enforcement tools to improve behavior. Another possible solution would be to heighten engagement with law enforcement and parking control officers.

As the City & County of San Francisco prepares for the legal commercial sale of cannabis in 2018, it can leverage its experience with MCDs to craft a stronger regulatory system. The Commission supports the City in taking action against businesses that are disruptive to neighbors and that negatively impact the economic vitality of the neighborhood commercial corridors. There are currently 28 applications under consideration (see table below). San Francisco may wish to consider immediate development and application of good neighbor standards as a condition for operating. Having a more robust good neighbor policy in place would be helpful in the transition to a new regulatory system in 2018.

Number of MCDs in San Francisco by District

District	MCDs in Operation	MCD Applications in Review	Total
1	1	0	1
2	0	1	1
3	10	1	11
4	0	5	5
5	2	0	2
6	13	13	26
7	1	1	2
8	2	0	2
9	5	3	8
10	1	3	4
11	3	1	4
TOTAL	38	28	66

The Small Business Commission respectfully requests that you do not approve this legislation.

Thank you for considering the Small Business Commission’s comments. Please feel free to contact me should you have any questions.

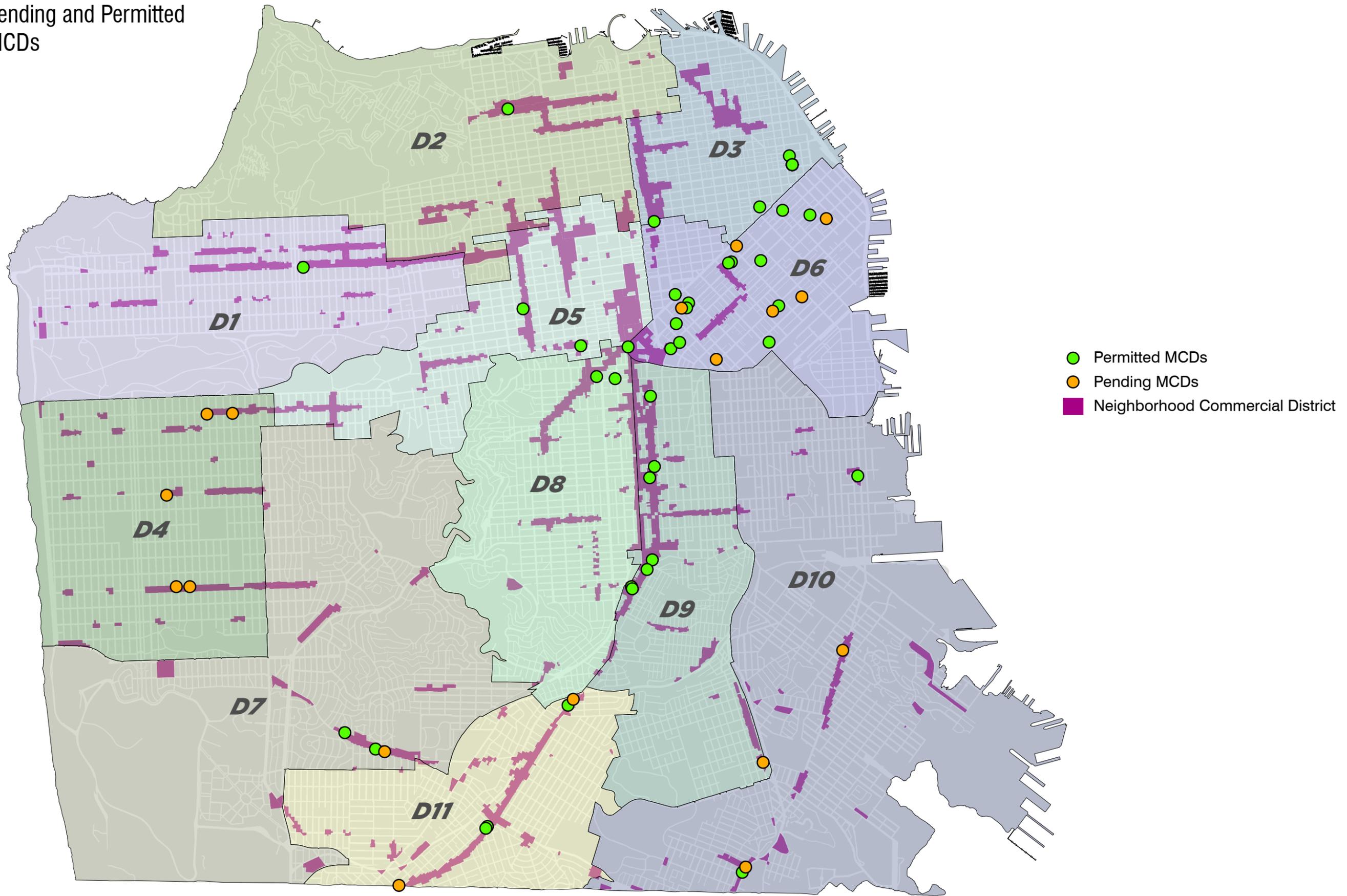
Sincerely,

A handwritten signature in black ink, appearing to read "Regina Dick-Endrizzi". The signature is fluid and cursive, with the first name "Regina" being the most prominent.

Regina Dick-Endrizzi
Director, Office of Small Business

cc: Ahsha Safai, Board of Supervisors
Nicole Elliott, City Administrator's Office
Mawuli Tugbenyoh, Mayor's Office
John Rahaim, Planning Department
Lisa Pagan, Office of Economic and Workforce Development
Linda Wong, Budget and Finance Sub-Committee

Pending and Permitted MCDs



SAN FRANCISCO

Medical Cannabis Dispensaries
by Supervisor District (Pending and Permitted) July 7, 2017

2 Miles



1 [Planning Code - Medical Cannabis Dispensaries in Supervisorial District 11]

2

3 **Ordinance amending the Planning Code to limit the number of medical cannabis**
 4 **dispensaries in Supervisorial District 11 to three at any given time; affirming the**
 5 **Planning Department's determination under the California Environmental Quality Act;**
 6 **making findings of consistency with the General Plan, and the eight priority policies of**
 7 **Planning Code, Section 101.1; and making a finding of public necessity, convenience,**
 8 **and welfare pursuant to 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.

13

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

15

16 Section 1. Environmental and Land Use Findings.

17 (a) The Planning Department has determined that the actions contemplated in this
 18 ordinance comply with the California Environmental Quality Act (California Public Resources
 19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
 20 Supervisors in File No. 170516 and is incorporated herein by reference. The Board affirms
 21 this determination.

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

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 the
4 proposed Planning Code amendments will serve the public necessity, convenience, and
5 welfare for the reasons set forth in Planning Commission Resolution No. _____, and the
6 Board incorporates such reasons herein by reference.

7
8 Section 2. General Findings.

9 (a) Supervisorial District 11 is adequately served by the existing number of medical
10 cannabis dispensaries (MCDs) in the District. There are three permitted MCDs currently
11 located in District 11. Two additional MCDs are located just outside the boundaries of District
12 11 in San Francisco. Two more MCDs are currently proposing to locate in District 11. District
13 11 residents recently mobilized to oppose two other proposed MCDs in District 11.

14 (b) Locations available for new MCDs in San Francisco are limited. District 11
15 includes several areas in which MCDs are permitted, resulting in a clustering of MCDs along
16 the Mission Street corridor. This clustering creates disproportionate detrimental land use
17 impacts on District 11 and its residents. Specifically, District 11 residents have complained of
18 youth cannabis usage, undesirable odors, loitering, and traffic congestion caused by existing
19 MCDs.

20 (c) District 11 is bordered by San Mateo County on the south. San Mateo County has
21 banned all MCDs from operating within its boundaries. Therefore, MCD operators may seek
22 to locate in District 11 in order to serve San Mateo County residents, as well as residents of
23 San Francisco. As a result, District 11 and its residents bear the land use impacts of MCDs
24 that serve both San Francisco and San Mateo County residents.

1 (d) Due to the dearth of land available in District 11 and the demand for other types of
 2 commercial establishments in District 11, limiting the use of vacant commercial property for
 3 MCDs would benefit local residents, by allowing the land to be used for other purposes. In
 4 particular, District 11 residents have requested more neighborhood-serving, family-friendly
 5 businesses, such as childcare establishments and a viable, clean, and safe grocery store in
 6 the district.

7 (e) District 11’s business corridors are among the the worst-performing in the city.
 8 Attracting a wide range of businesses that are neighborhood-serving and family-friendly would
 9 improve the performance and usefulness of these business corridors for the local community.

10
 11 Section 3. The Planning Code is hereby amended by revising Sections 711, 712, 713,
 12 731, 734, 737, and 745, to read as follows:

13
 14 **SEC. 711. NC-2 – SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.**

15 * * * *

16 **Table 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2**
 17 **ZONING CONTROL TABLE**

18 * * * *

No.	Zoning Category	§ References	NC-2 Controls by Story		
		§ 790.118	1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
711.84	Medical Cannabis Dispensary	§ 790.141	P #		
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SPECIFIC PROVISIONS FOR NC-2 DISTRICTS		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 711.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NC-2 District may only operate between the hours of 8 a.m. and 10 p.m. <u>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</u>
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SEC. 712. NC-3 – MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.

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**Table 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3
ZONING CONTROL TABLE**

* * * *

No.	Zoning Category	§ References	NC-3 Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *	Institutions and Non-Retail Sales and Services				

* * * *	* * * *	* * * *	* * *	* * *	* * * *
712.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR NC-3 DISTRICTS		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 712.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NC-3 District may only operate between the hours of 8 a.m. and 10 p.m. <i>No more than three MCDs shall be permitted at any given time within the boundaries of <u>Supervisorial District 11.</u></i>
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SEC. 713. NC-S – NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT.

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**Table 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S
ZONING CONTROL TABLE**

* * * *

No.	Zoning Category	§ References	NC-S Controls by Story
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		§ 790.118	1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * *	* * *	* * * *
			*	*	
713.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR NC-S DISTRICTS		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 713.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NC-S District may only operate between the hours of 8 a.m. and 10 p.m. <i>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</i>
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SEC. 731. NCT-3 – MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

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Table 731. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT-3 ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NCT-3 Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
* *	* * * *	* * *	* *	* * *	* *
* *		*	* *	*	* *
731.84	Medical Cannabis Dispensary	§ 790.141	P #	-	-
* * * *					

SPECIFIC PROVISIONS FOR NCT-3 DISTRICTS

Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 731.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NCT-3 District may only operate between the hours of 8 am and 10 pm. <i>No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</i>
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4 **SEC. 734. NCT-2 – SMALL-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT**
5 **DISTRICT.**

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7 **Table 734. SMALL-SCALE NEIGHBORHOOD COMMERCIAL**
8 **TRANSIT DISTRICT NCT-2 ZONING CONTROL TABLE**

9 * * * *

No.	Zoning Category	§ References	NCT-2 Controls by Story		
		§ 790.118	1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
734.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR NCT-2 DISTRICTS		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 734.84 § 790.141	Health Code § 3308	Medical cannabis dispensaries in NCT-2 District may only operate between the hours of 8 a.m. and 10 p.m. <u>No more than three MCDs shall be permitted at any given time within the boundaries of</u>

		<u>Supervisorial District 11.</u>
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SEC. 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

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**Table 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE**

* * * *

No.	Zoning Category	§ Reference s	Ocean Avenue Transit Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
737.84	Medical Cannabis Dispensary	§ 790.141	P #		
* * * *					

SPECIFIC PROVISIONS FOR THE OCEAN AVENUE NCT DISTRICT		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 737.84	Health Code	MEDICAL CANNABIS DISPENSARIES
§ 790.141	§ 3308	Boundaries: Ocean Avenue Neighborhood Commercial Transit District
		Controls:

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		<p>(a) A Medical Cannabis Dispensary (MCD) seeking to locate within 500 feet of another MCD use may be allowed as a conditional use; provided, however, that any amendments to regulations governing the proximity of an MCD to another MCD that are applicable to MCDs Citywide shall apply in the Ocean Avenue NCT District and will supersede the conditional use requirement contained in this Section 737.</p> <p>(b) The Planning Commission shall approve the application and authorize the conditional use if, in addition to the application's satisfying the requirements of Planning Code Section 303, the facts presented establish that:</p> <ul style="list-style-type: none">(1) the MCD will bring measurable community benefits and enhancements to the Ocean Avenue NCT District;(2) the MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of patients visiting the MCD; and
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		<p>(3) the MCD has demonstrated a commitment to maintaining public safety by actively engaging with the community prior to applying for the Conditional Use, including adequate security measures in its operation of the business, and designating a community liaison to deal effectively with current and future neighborhood concerns.</p> <p>(c) In addition to the above criteria, in regard to a Conditional Use authorization application, the Planning Commission shall consider the existing concentrations of MCDs within the District.</p> <p>(d) Medical Cannabis Dispensaries in the Ocean Avenue NCT District may only operate between the hours of 8 a.m. and 10 p.m.</p> <p><i><u>(e) No more than three MCDs shall be permitted at any given time within the boundaries of Supervisorial District 11.</u></i></p>
* * * *	* * * *	* * * *

1 **SEC. 745. EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL**
 2 **DISTRICT.**

3 * * * *

4 **Table 745. EXCELSIOR OUTER MISSION STREET**
 5 **NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE**

6 * * * *

No.	Zoning Category	§ References	Excelsior Outer Mission Street Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
745.84	Medical Cannabis Dispensary	§ 790.141	P #	P #	P #
* * * *					

SPECIFIC PROVISIONS FOR THE EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL DISTRICT		
Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§ 745.84 § 790.141	Health Code § 3308	MEDICAL CANNABIS DISPENSARIES Boundaries: Excelsior Outer Mission Street Neighborhood Commercial District. Controls: (a) A Medical Cannabis Dispensary (MCD)

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		<p>seeking to locate within 500 feet of another MCD use may be allowed as a conditional use; provided, however, that any amendments to regulations governing the proximity of an MCD to another MCD that are applicable to MCDs Citywide shall apply in the Excelsior Outer Mission NCD and will supersede the conditional use requirement contained in this Section 745.</p> <p>(b) In addition to the requirements of Planning Code Section 303, the Planning Commission shall approve the application and authorize the conditional use if the facts presented are such to establish that:</p> <p>(1) the MCD will bring measurable community benefits and enhancements to the Excelsior Outer Mission Street Neighborhood Commercial District,</p> <p>(2) the MCD has prepared a parking and transportation management plan sufficient to address the anticipated impact of its patients,</p> <p>(3) the MCD has demonstrated a</p>
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		<p>commitment to maintaining public safety by actively engaging with the community prior to applying for the Conditional Use, including adequate security measures in the operation of their business and designating a community liaison to deal effectively with current and future neighborhood concerns.</p> <p>(c) In addition to the above criteria, in regard to a Conditional Use authorization application, the Planning Commission shall consider the existing concentrations of MCDs within the District.</p> <p>(d) A Medical Cannabis Dispensary may only operate between the hours of 8 am and 10 pm.</p> <p>(e) A Medical Cannabis Dispensary may locate above the first floor only if it shall be accessible to persons with disabilities as required under the California Building Code.</p> <p><i><u>(f) No more than three MCDs shall be permitted at any given time within the boundaries of</u></i></p>
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		<u>Supervisorial District 11.</u>
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Section 4. 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 5. 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: _____
VICTORIA WONG
Deputy City Attorney

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