



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JUNE 14, 2018
90-DAY DEADLINE: JULY 10, 2018

Project Name: **Prohibiting Cannabis Retail and MCDs in Chinatown MUDs**
Case Number: **2018-006286PCA** [Board File No. 180319]
Initiated by: Supervisor Peskin / Introduced April 3, 2018
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval with Modifications**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to prohibit Cannabis Retail and Medical Cannabis Dispensaries in the Chinatown Mixed Use Districts.

The Way It Is Now:

1. Cannabis Retail requires Conditional Use authorization within the three Chinatown Mixed Use Districts (MUDs).
2. Medical Cannabis Dispensaries (MCDs) require Mandatory Discretionary Review within the three Chinatown MUDs.

The Way It Would Be:

1. Cannabis Retail would be prohibited within the three Chinatown MUDs.
2. MCDs would be prohibited within the three Chinatown MUDs.

BACKGROUND

On November 9, 2016, the Mayor issued Executive Directive 16-05, "Implementing Prop 64: Adult Use of Marijuana Act," directing the Department of Public Health and the Planning Department, in consultation with other departments, to move forward with legislation for the Board of Supervisors' consideration that would address land use, licensing, safety, and youth access issues related to adult use cannabis under Proposition 64. Pursuant to that Executive Directive, the City spent over a year developed comprehensive legislation that established a complete regulatory framework for a broad range of cannabis businesses, and that identified where, and under what conditions, they may operate.

During the legislative process, several Supervisors sought special carve-outs for their respective districts and commercial corridors, including Chinatown, several NC District in Supervisorial District 2, a cap on MCDs and Cannabis Retail in Supervisorial District 11, and limits in Supervisorial District 7 and 4. In the end, the Board agreed to remove all of these carve-outs from ordinance so that the legislation could move forward with each neighborhood treated equitably. The standard that the ordinance set requires Conditional Use authorization for any Cannabis Retail and a Mandatory DR for MCDs within Neighborhood Commercial Districts and Chinatown. It also set a standard 600' buffer around existing

cannabis retail, MCDs and schools citywide. These controls are intended to ensure that no one neighborhood becomes over concentrated with cannabis sales, that cannabis is kept away from underage children, and that the affected community has an opportunity to provide feedback and comment before the Commission on all cannabis retail applications.

The Board passed the cannabis regulations ordinance on a 10-1 vote, which Supervisor Safai voting against. The Mayor signed the ordinance on December 6, 2017 and it became effective on January 6 of this year.

ISSUES AND CONSIDERATIONS

Cannabis Applications

The Office of Cannabis just released applications for equity applicants and will soon be releasing applications for existing MCDs to convert to Cannabis Retail. As such, it's too soon in the process to determine how effective the new regulations are at mitigating over concentration and nuisance concerns. So far, around 36 equity applicants have submitted applications to the Office of Cannabis (See Exhibit C), and none of them are located within Chinatown. There are also no existing MCDs within Chinatown. Of the equity applications, several are proposed in neighborhoods that have not seen cannabis applications in the past. These include North Beach, the Haight, the Castro proper, and the Tenderloin. Nine are proposed in SoMa/Mission areas where there is already a significant concentration.

Community Concerns

During the hearings, there was a significant amount of opposition to the proposed regulations from San Francisco's Chinese community. Speakers were generally concerned about exposure to children, proximity to schools, and neighborhood character. They also felt that not enough outreach was done to the community in developing the legislation. As such, many of the speakers advocated for an even larger radius from schools (1500-2000 feet), including childcare centers and playgrounds in the list of sensitive uses, and prohibitions on cannabis sales in neighborhoods like the Outer Sunset and Chinatown.

A letter submitted by the Community Tenants Association (CTA) (see Exhibit B), which is associated with the Board File for this ordinance outlines several concerns about allowing cannabis in Chinatown. In summary, the letter states that due to the lack of community outreach to the Chinese Community, CTA is requesting that cannabis sales be prohibited in all Chinatown MUDs. It goes on to say that Chinatown is facing extreme gentrification and displacement pressures. The new cannabis industry will only exacerbate these pressures through higher rents, which will push out existing small businesses. The letter asserts that the fragile commercial corridors in Chinatown will not survive the pressure caused by this new industry. This letter was also used as a basis for finding in the proposed ordinance.

Chinatown MUDs

There are three Chinatown MUDs. They include the Chinatown Community Business District, the Chinatown Visitor Retail District, and the Chinatown Residential Neighborhood Commercial District. For reference and background, the following is a description of each district:

Chinatown Community Business District: The Chinatown Community Business District, located in the northeast quadrant of San Francisco, extends along Broadway from the eastern portal of the Broadway Tunnel to Columbus Avenue and along Kearny Street from Columbus to Sacramento Street. This district

also includes portions of Commercial Street between Montgomery Street and Grant Avenue and portions of Grant Avenue between Bush and California Streets. It is part of the larger core area of Chinatown.

The portions of Broadway, Kearny and Commercial Streets and Grant Avenue in this district are transitional edges or entries to Chinatown. North and east of the two blocks of Broadway contained in this district are North Beach and the Broadway Entertainment Districts. Kearny and Columbus Streets are close to intensive office development in the Downtown Financial District. Both Grant Avenue and Commercial Street provide important pedestrian entries to Chinatown. Generally, this district has more potential for added retail and commercial development than other parts of Chinatown.

This zoning district is intended to protect existing housing, encourage new housing and to accommodate modest expansion of Chinatown business activities as well as street-level retail uses. The size of individual professional or business office use is limited in order to prevent these areas from being used to accommodate larger office uses spilling over from the financial district.

Housing development in new buildings is encouraged at upper stories. Existing housing is protected by limitations on demolitions and upper-story conversions. Accessory dwelling units are permitted within the district pursuant to Subsection [207\(c\)\(4\)](#) of this Code.

Chinatown Visitor Retail District: The Chinatown Visitor Retail Neighborhood Commercial District extends along Grant Avenue between California and Jackson Streets. This district contains a concentration of shopping bazaars, art goods stores and restaurants which attract visitors and shoppers and contribute to the City's visual and economic diversity. Grant Avenue provides an important link between Downtown retail shopping and the Broadway, North Beach and Fisherman's Wharf areas.

This district is intended to preserve the street's present character and scale and to accommodate uses primarily appealing to visitors (e.g. tourist gifts shops, jewelry stores, art goods, large restaurants. In order to promote continuous retail frontage, entertainment, financial services, medical service, automotive and drive-up uses are restricted. Most commercial uses, except financial services are permitted on the first two stories. Administrative services, (those not serving the public) are prohibited in order to prevent encroachment from downtown office uses. There are also special controls on fast-food restaurants and tourist hotels. Building standards protect and complement the existing small-scale development and the historic character of the area.

The height limit applicable to the district will accommodate two floors of housing or institutional use above two floors of retail use. Existing residential units are protected by prohibition of upper-story conversions and limitation on demolition. Accessory dwelling units are permitted within the district pursuant to Subsection [207\(c\)\(4\)](#) of this Code.

Chinatown Residential Neighborhood Commercial District: The Chinatown Residential Neighborhood Commercial District extends along Stockton Street between Sacramento and Broadway and along Powell Street between Washington Street and Broadway. It is generally west and uphill from Grant Avenue and is close to the relatively intensely developed residential areas of lower Nob and Russian Hills. Stockton Street is a major transit corridor which serves as "Main Street" for the Chinatown neighborhood. Both Stockton and Powell Streets contain a significant amount of housing as well as major community institutions supportive to Chinatown and the larger Chinese community. This daytime-oriented district provides local and regional specialty food shopping for fresh vegetables, poultry, fish and meat. Weekends are this area's busiest shopping days.

Because Stockton Street is intended to remain principally in its present character, the Stockton Street controls are designed to preserve neighborhood-serving uses and protect the residential livability of the

area. The controls promote new residential development compatible with existing small-scale mixed-use character of the area. Consistent with the residential character of the area, commercial development is directed to the ground story. Daytime-oriented use is protected and tourist-related uses, fast-food restaurants and financial services are limited.

Housing development in new and existing buildings is encouraged above the ground floor. Institutional uses are also encouraged. Existing residential units are protected by limits on demolition and conversion. Accessory dwelling units are permitted within the district pursuant to Subsection [207\(c\)\(4\)](#) of this Code.

General Plan Compliance

The proposed ordinance complies with the following Objective and policies in the General Plan:

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

POLICY 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The proposed ordinance is seeking to retain existing commercial activity in Chinatown. If amended as proposed by the Department, it will also allow a new commercial activity, cannabis retail, to establish once we know more about how the newly emerging industry is affecting commercial rents.

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 seeks to ensure that existing businesses are not displaced by the emerging cannabis industry, encouraging the retention of existing neighborhood serving businesses.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

RECOMMENDATION

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

1. Modify the Ordinance so that the new prohibition on MCDs and Cannabis Retail last only two years.

BASIS FOR RECOMMENDATION

The Department supports the proposed ordinance because it acknowledges that the City did not adequately reach out to the Chinatown community during the formulation of the cannabis controls. This particular community came out very strongly in opposition to the proposed controls during the legislative process, making clear that they did not want cannabis sold in their community; however, the Department is concerned that this ordinance will set a precedent, and that other neighborhoods will also want a prohibition. Particularly, the Department is concerned that other districts, which also sought carve-outs, will now seek legislative changes to do so.

The controls in place now were carefully crafted to provide equitable distribution throughout the City, while also considering concerns of over-concentration and access to youth. The City's cannabis controls are too new to determine if they are working, but past experience has shown that cannabis uses will only congregate in smaller areas of the City if the regulations are too restrictive. Further, permanently prohibiting cannabis sales in this community would significantly diminish the opportunity for its members to benefit economically from this new industry.

Recommendation 1: Modify the Ordinance so that the new prohibition on MCDs and Cannabis Retail last only two years.

Putting a time limit on this prohibition would ensure that this issue could be reconsidered once the new laws have had an opportunity to take effect. It would also provide the City and the Chinatown community time to engage in a dialog about community concerns and address some of the misconceptions about cannabis. Further, it would address the Department's concern that this ordinance is setting a prescient for other the neighborhoods in the City.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

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 has not received any public comment regarding the proposed Ordinance. A letter from the Community Tenants Association was sent to the Board of Supervisors

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Letters from the Community Tenants Association
- Exhibit C: List and Map of Cannabis Equity Applicants
- Exhibit D: Board of Supervisors File No. 180319



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE JUNE 14, 2018

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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PROHIBIT CANNABIS RETAIL AND MEDICAL CANNABIS DISPENSARIES IN THE CHINATOWN MIXED USE DISTRICTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on April 3, 2018 Supervisors Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180319, which would amend the Planning Code to prohibit Cannabis Retail and Medical Cannabis Dispensaries in the Chinatown Mixed Use Districts;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 14, 2018; and,

WHEREAS, 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; 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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

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 supports the proposed ordinance because it acknowledges that the City did not adequately reach out to the Chinatown community during the formulation of the cannabis controls.
2. The Commission finds that this particular community came out very strongly in opposition to the proposed controls during the legislative process, making clear that they did not want cannabis sold in their community; however, the Commission is concerned that this ordinance will set a precedent, and that other neighborhoods will also want a prohibition. Particularly, the Commission is concerned that other districts, which also sought carve-outs, will now seek legislative changes to do so.
3. The Commission finds that the controls in place now were carefully crafted to provide equitable distribution throughout the City, while also considering concerns of over-concentration and access to youth.
4. The Commission finds that the City's cannabis controls are too new to determine if they are working, but past experience has shown that cannabis uses will only congregate in smaller areas of the City if the regulations are too restrictive. Further, permanently prohibiting cannabis sales in this community would significantly diminish the opportunity for its members to benefit economically from this new industry.
5. **General Plan Compliance.** The proposed Ordinance with the Commission's recommended modifications is 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 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The proposed ordinance is seeking to retain existing commercial activity in Chinatown. If amended as proposed by the Department, it will also allow a new commercial activity, cannabis retail, to establish once we know more about how the newly emerging industry is affecting commercial rents.

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 seeks to ensure that existing businesses are not displaced by the emerging cannabis industry, encouraging the retention of existing neighborhood serving businesses.

6. **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 not have a negative 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.

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 it seeks to preserve neighborhood character.

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.

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.

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.

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.

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.

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.

7. **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 APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 14, 2018.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: June 14, 2018



April 2, 2018

Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisors,

Last year, the San Francisco Board of Supervisors adopted regulations governing the sale and distribution of adult use cannabis, following hasty, high-pressure deliberations and over two years of meetings by the Cannabis State Legalization Task Force that, in large part, failed to perform meaningful community outreach to the Chinatown community. For the reasons set forth in this letter, we are requesting that all Chinatown mixed use districts now be exempt from the permissive cannabis regulations adopted last year.

For over 30 years, we at the Community Tenants Association have organized to defend the rights of low-income tenants throughout San Francisco. We represent Chinese seniors, youth & families, as well as low-income tenants across the City, and we have been at the forefront of social justice issues in San Francisco since our founding. Contrary to media reports from last year which oversimplified and trivialized the concerns of Chinese residents, we are not angling for opportunistic gain. We are only advocating for the stability of our tightly-knit and fragile constituent groups.

As evidenced by daily changes in our neighborhood, and as frequently noted in Chinese-language press, **Chinatown is facing extreme gentrification and displacement pressures.** We have a long, proud tradition of community planning to ensure self-determination and cultural preservation. The competition for commercial space is rigorous, and local merchants catering to the cultural and traditional needs of our large immigrant community are being pushed out due to high rents and illegal conversions. At least until this newly-legal industry stabilizes, the prospect of high rents that cannabis retail can afford is causing property owners to hold out on renting vacant commercial space and, in some instances, to raise the rents of existing community-serving retail space – sometimes doubling them – in order to replace them with higher rent businesses. Our fragile commercial corridors in Chinatown will not survive this pressure.

Chinatown is also one of the densest neighborhoods in the city, with a high concentration of Single Resident Occupancy (SRO) hotels. These SROs have historically been the only affordable housing for new immigrants, families, seniors and workers in Chinatown. **Chinatown SRO buildings are old, the walls are often thin, and secondhand smoke continues to be a problem for many of our tenants.** In lower-income communities, we live on top of each other, and every decision impacts a neighbor. As more and more of our SRO housing stock is taken over by urban professionals with significantly more disposable income, these basic

1525 Grant Avenue
San Francisco, CA 94133-3323
Phone: (415) 984-1460

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considerations are disappearing. Recent studies have suggested that secondhand cannabis smoke is comparable to and potentially even more harmful than secondhand tobacco smoke, contributing to heart attack and stroke. Seniors and children have enough health issues to worry about without laws that will encourage and amplify the effects of secondhand smoke, including in and around our public parks, bus stops and hard-fought open space.

We understand the political sensitivity of regulating cannabis, and would not request this exemption were it not for the fragility of our existing commercial corridors and the health risks posed to many of our low-income tenants in Chinatown. We hope that we can have a more rational, measured conversation about this now that the important conversations around equity and citywide access have been mostly addressed. Thank you to Supervisors Kim and Peskin and Planning Commissioner Myrna Melgar for raising these concerns on our behalf, and for being open to reasonable legislative changes to a law that will have a profound impact on low-income communities of color. There is still an extraordinary amount of work to be done on behalf of our communities, and we wholeheartedly appreciate your support.

Sincerely,

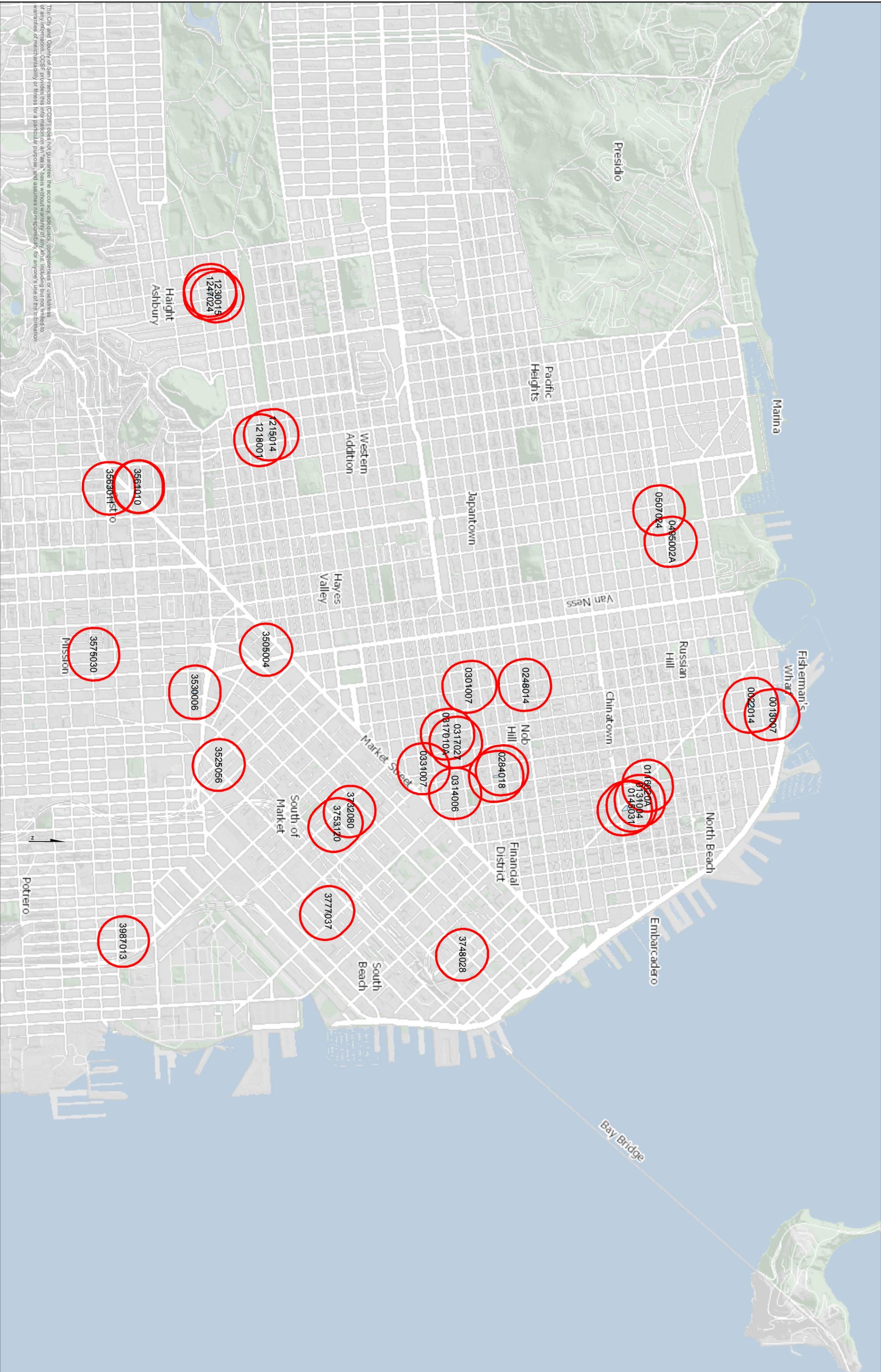
A handwritten signature in black ink that reads 'Wing Hoo Leung'.

Wing Hoo Leung
President, Community Tenants Association

1525 Grant Avenue
San Francisco, CA 94133-3323
Phone: (415) 984-1460

Exhibit C

Permit Application Name	Eligibility-Permit Application	Eligibility-Permit Application	Business Street Address	Cannabis Retailer	Medicinal Cannabis Retailer	Parcel (Block/Lot)	Case: Status
P-03402	1	0		1	0	3563/011	Submitted
P-04218	1	0	1700 LOMBARD ST	1	0	0495/002A	Submitted
P-03131	1	0	155 JEFFERSON ST	1	0	0013/007	Submitted
P-03100	1	0	580 GREEN ST	1	0	0116/020A	Submitted
P-04951	1	0	1670 ARMSTRONG AVE	1	0	5419023	Submitted
P-04537	1	0	906 POST ST	1	0	0301/007	Submitted
P-03718	1	0	4526 3RD ST	1	0	5296/020	Submitted
P-03185	0	1	481 TEHAMA ST	1	0	3732/080	Submitted
P-03236	1	0	500 JONES ST	1	0	0317/010A	Submitted
P-03174	1	0	1670 HAIGHT ST	1	0	1230/015	Submitted
P-03749	1	0	1398 CALIFORNIA ST	1	0	0248/014	Submitted
P-03420	0	1	518 BRANNAN ST	1	1	3777-037	Submitted
P-03137	1	0	2627 TAYLOR ST	1	0	0022/014	Submitted
P-03153	0	1	1750 FOLSOM ST	1	0	3530/006	Submitted
P-03092	1	0	1685 HAIGHT ST	1	0	1247/020	Submitted
P-03177	0	1	SUTTER ST	1	0	0284/007	Submitted
P-03209	1	0	312 COLUMBUS AVE	1	0	0145/013	Submitted
P-03596	1	0	1335 GRANT ST	1	0	0131/004	Submitted
P-03459	0	1	132 EDDY ST	1	0	0331/007	Submitted
P-03529	1	0	536 SUTTER ST	1	0	0284/007	Submitted
P-04279	1	0	165 MISSISSIPPI ST	1	1	APN: 3987013	Submitted
P-03233	0	1	1881 -1885 LOMBARD ST	1	0	0507/024	Submitted
P-03123	1	0	258 NOE ST	1	0	3561/009	Submitted
P-06878	1	0		1	0	3561/010	Submitted
P-03327	0	1		1	0	3561/010	Submitted
P-04131	1	0	40 12TH ST	1	0	3505/004	Submitted
P-03299	0	1	443 FOLSOM ST	1	0	3748/028	Submitted
P-04119	1	0	147 SOUTH PARK ST UNIT 3	1	0	3775/224	Submitted
P-03436	1	0		1	0	1215/014	Submitted
P-03559	1	0	535 GEARY ST	1	0	0317/027	Submitted
P-03597	1	0	985 FOLSOM ST BLDG	1	0	3753/120	Submitted
P-03415	1	0	767 BUSH	1	0	0284/018	Submitted
P-04688	1	0	1673 HAIGHT ST	1	0	1247024	Submitted
P-04659	1	0	1547 PALOS VERDE MALL #297	1	0	1218001	Submitted
P-03333	1	0	2199 MISSION ST	1	0	3575/030	Submitted
P-06904	1	0	GRANT AVE	1	1	0145-031, 0145-032	Submitted
P-06888	1	0	1190 BRYANT ST	1	0	3525/056	Submitted
P-03145	1	0	180 O'FARRELL ST.	1	0	0314/006	In-Process



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Potrero

Bay Bridge



Exhibit D

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

2

3 **Ordinance amending the Planning Code to prohibit Cannabis Retail and Medical**
4 **Cannabis Dispensaries in the Chinatown Mixed Use Districts; affirming the Planning**
5 **Department’s determination under the California Environmental Quality Act; making**
6 **findings of consistency with the General Plan, and the eight priority policies of**
7 **Planning Code, Section 101.1; and making findings of public necessity, convenience,**
8 **and welfare 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.

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 Section 21000 et seq.). Said determination is on file with the Clerk of the Board of
20 Supervisors in File No. 180319, 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 these
4 Planning Code amendments will serve the public necessity, convenience, and welfare for the
5 reasons set forth in Planning Commission Resolution No. _____, and the Board incorporates
6 such reasons herein by reference. A copy of said Resolution is on file with the Clerk of the
7 Board of Supervisors in File No. _____, and is incorporated herein by reference.

8
9 Section 2. General Findings.

10 (a) In 2017, the San Francisco Board of Supervisors adopted regulations governing
11 the manufacture, sale, and distribution of adult use of cannabis, following approval by
12 California voters in 2016 of Proposition 64, the Control, Regulate and Tax Adult Use of
13 Marijuana Act. By passing Proposition 64, California joined other states, including Nevada,
14 Washington, Oregon, Colorado, Maine, and Massachusetts, in legalizing the adult recreational
15 use of cannabis.

16 (b) While the legalization of cannabis for medicinal and recreational use serves the
17 public good by, among other things, making cannabis more accessible to patients in need,
18 addressing the disparate impacts of decades of racially-biased criminal justice and law
19 enforcement systems, reducing prison populations, and generating tax revenue for
20 reinvestment in public education and environmental, social and medical programs, the impact
21 of the booming cannabis industry on real estate prices and on existing, vulnerable
22 communities in San Francisco has not yet been assessed.

23 (c) According to the San Francisco Chinatown Area Plan, the Chinese American
24 community in San Francisco is the oldest and second largest in the entire United States.
25 According to 2015 data from the U.S. Census Bureau, San Francisco's Chinatown is also one

1 of the City's densest neighborhoods, wherein two-thirds of residents, many of them elderly
2 and/or immigrants, live in Single Room Occupancy (SRO) housing. As the cost of housing
3 continues to soar, the number of families living in Chinatown SROs has grown. In many
4 instances, Chinatown SROs are occupied by multiple generations of families making well
5 below the City's median household income.

6 (d) At the core of San Francisco's Chinatown Area Plan are incentives to further
7 Chinatown's function as a center of civic, religious, and political organization, as well as a
8 specialized shopping area for the broader Bay Area Chinese population. In part because of
9 policies enacted by the City, Chinatown has managed to maintain a dense concentration of
10 institutional land uses, including space for Family and District Associations, a number of
11 health and social service agencies, and a diverse array of Chinese-owned and -operated
12 active commercial uses.

13 (e) San Francisco's Chinatown has also faced and resisted ongoing pressures from
14 office and co-working space, financial institutions, and other uses that contribute to rent
15 increases and displace smaller retail and community-serving institutions. The framework for
16 expansion of cannabis retail in Chinatown may also increase competition for leases on the
17 ground and upper floors throughout Chinatown's mixed-use districts. Since the successful
18 legalization of medicinal and recreational cannabis in states such as Colorado and
19 Washington, the rapid expansion of cannabis retail and manufacturing has created an
20 unprecedented boost for the commercial real estate industry. Landlords and property owners
21 in those states have commanded two to three times the pre-existing commercial rental rates
22 from cannabis retail tenants.

23 (f) The emergence of well-capitalized uses amid the ongoing construction of the
24 Central Subway Chinatown Station and other needed infrastructure improvements has
25 created a particularly fragile economy for community-serving retail in Chinatown. Several

1 businesses have closed under the combined pressures of construction-driven street closures,
2 consequent lulls in foot traffic, and speculative rent increases. In isolated instances,
3 commercial tenants have received notice of their rents doubling, rendering ongoing business
4 in Chinatown impossible. The impact of increased competition for valuable retail space in
5 Chinatown risks devastating the existing retail environment in Chinatown, and, in turn, driving
6 irreparable gentrification and displacement of historically lower income commercial tenants
7 and the resident immigrant communities they serve.

8 (g) The dense living environments of Chinatown SROs present additional sensitivities
9 and vulnerabilities to the influx of medicinal and recreational cannabis use. SROs have
10 historically been the only affordable housing for new immigrants, families, seniors, and
11 workers in Chinatown. Many of the buildings are old and their walls thin, allowing for
12 secondhand smoke of any form to be an ongoing nuisance to adjacent tenants. As SRO
13 housing is increasingly made available to upwardly mobile urban professionals with more
14 disposable income, the familial bonds and communal considerations of this form of housing
15 are disappearing.

16 (h) While medicinal or recreational cannabis will still be readily accessible even if it is
17 not permitted to be sold within Chinatown's mixed use districts, the cultural and communal
18 considerations of Chinatown's immigrant and lower-income populations have yet to be
19 addressed through language-appropriate and culturally sensitive educational and outreach
20 efforts. The City and County of San Francisco has an interest in and an obligation to facilitate
21 the accessible and responsible use of cannabis for both medicinal and recreational use, and it
22 has a simultaneous obligation to ensure that the industry grows and matures in a way that
23 respects the diverse cultural fabric of the City's existing communities. These interests and
24 obligations are not rendered inconsistent by a prohibition on medicinal and retail cannabis
25 uses along the sensitive corridors and alleyways of San Francisco's historic Chinatown.

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Section 3. The Planning Code is hereby amended by revising Sections 803.2, 810, 811, and 812, to read as follows:

SEC. 803.2. USES PERMITTED IN CHINATOWN MIXED USE DISTRICTS.

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

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

TABLE 803.2 USE CATEGORIES PERMITTED IN THE CHINATOWN MIXED USE DISTRICTS

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

* * * *

(C) **Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1 (Accessory Uses for Dwelling Units in R Districts) and 204.5 (Parking and

1 Loading as Accessory Uses) of this Code, a related minor use which is either necessary to the
 2 operation or enjoyment of a lawful Principal Use or Conditional Use or is appropriate,
 3 incidental, and subordinate to any such use, shall be permitted in Chinatown Mixed Use
 4 Districts as an Accessory Use when located on the same lot. Any Use not qualified as an
 5 Accessory Use shall only be allowed as a Principal or Conditional Use, unless it qualifies as a
 6 temporary use under Sections 205 through 205.2 of this Code.

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

9 * * * *

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

12 * * * *

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

17 * * * *

18
 19 **SEC. 810. CHINATOWN COMMUNITY BUSINESS DISTRICT.**

20 * * * *

21 **Table 810**

22 **CHINATOWN COMMUNITY BUSINESS DISTRICT ZONING CONTROL TABLE**

23 * * * *

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

SEC. 811. CHINATOWN VISITOR RETAIL DISTRICT.

* * * *

Table 811

CHINATOWN VISITOR RETAIL DISTRICT ZONING CONTROL TABLE

* * * *

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

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

SEC. 812. CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT.

* * * *

Table 812

CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Chinatown Residential Neighborhood Commercial Controls by Story		
			1st	2nd	3rd+
Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
75	<i>Cannabis Retail</i>	§§ 202.2(a), 890.125	C		
Institutions					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
83	<i>Medical Cannabis Dispensary</i>	§ 890.133	P		
* * * *					

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

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3
4 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
5 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
6 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
7 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
8 additions, and Board amendment deletions in accordance with the "Note" that appears under
9 the official title of the ordinance.

10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: _____
14 PETER R. MILJANICH
15 Deputy City Attorney
16 n:\legana\as2018\1800492\01277565.docx