

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.

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

17 Section 1. Environmental and Land Use Findings.

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 Section 21000 et seq.). Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. 180319, and is incorporated herein by reference. The Board affirms
22 this determination.

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

1 Plan and eight priority policies of Planning Code Section 101.1. For this purpose, the Board
2 relies on the General Findings in Section 2 of this ordinance, as well as the General Plan
3 compliance findings set forth in the Planning Department's Executive Summary of these
4 Planning Code amendments prepared for the Planning Commission's June 14, 2018 hearing,
5 which findings tThe Board adopts these findings as its own. A copy of said Resolution the
6 Planning Department's Executive Summary is on file with the Clerk of the Board of
7 Supervisors in File No. 180319, and is incorporated herein by reference.

8 (c) Pursuant to Planning Code, Section 302, the Board of Supervisors finds that these
9 Planning Code amendments will serve the public necessity, convenience, and welfare for the
10 reasons set forth in Section 2 of this ordinance and the Planning Department's Executive
11 Summary of these Planning Code amendments ~~Planning Commission Resolution No. _____,~~
12 and the Board incorporates such reasons herein by reference. A copy of said ~~Resolution~~ the
13 Planning Department's Executive Summary of these Planning Code amendments is on file
14 with the Clerk of the Board of Supervisors in File No. 180319, and is incorporated herein by
15 reference.

16 Section 2. General Findings.

17 (a) In 2017, the San Francisco Board of Supervisors adopted regulations governing
18 the manufacture, sale, and distribution of adult use of cannabis, following approval by
19 California voters in 2016 of Proposition 64, the Control, Regulate and Tax Adult Use of
20 Marijuana Act. By passing Proposition 64, California joined other states, including Nevada,
21 Washington, Oregon, Colorado, Maine, and Massachusetts, in legalizing the adult recreational
22 use of cannabis.
23

24 (b) While the legalization of cannabis for medicinal and recreational use serves the
25 public good by, among other things, making cannabis more accessible to patients in need,

1 addressing the disparate impacts of decades of racially-biased criminal justice and law
2 enforcement systems, reducing prison populations, and generating tax revenue for
3 reinvestment in public education and environmental, social and medical programs, the impact
4 of the booming cannabis industry on real estate prices and on existing, vulnerable
5 communities in San Francisco has not yet been assessed.

6 (c) According to the San Francisco Chinatown Area Plan, the Chinese American
7 community in San Francisco is the oldest and second largest in the entire United States.
8 According to 2015 data from the U.S. Census Bureau, San Francisco's Chinatown is also one
9 of the City's densest neighborhoods, wherein two-thirds of residents, many of them elderly
10 and/or immigrants, live in Single Room Occupancy (SRO) housing. As the cost of housing
11 continues to soar, the number of families living in Chinatown SROs has grown. In many
12 instances, Chinatown SROs are occupied by multiple generations of families making well
13 below the City's median household income.

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

21 (e) San Francisco's Chinatown has also faced and resisted ongoing pressures from
22 office and co-working space, financial institutions, and other uses that contribute to rent
23 increases and displace smaller retail and community-serving institutions. The framework for
24 expansion of cannabis retail in Chinatown may also increase competition for leases on the
25 ground and upper floors throughout Chinatown's mixed-use districts. Since the successful

1 legalization of medicinal and recreational cannabis in states such as Colorado and
2 Washington, the rapid expansion of cannabis retail and manufacturing has created an
3 unprecedented boost for the commercial real estate industry. Landlords and property owners
4 in those states have commanded two to three times the pre-existing commercial rental rates
5 from cannabis retail tenants.

6 (f) The emergence of well-capitalized uses amid the ongoing construction of the
7 Central Subway Chinatown Station and other needed infrastructure improvements has
8 created a particularly fragile economy for community-serving retail in Chinatown. Several
9 businesses have closed under the combined pressures of construction-driven street closures,
10 consequent lulls in foot traffic, and speculative rent increases. In isolated instances,
11 commercial tenants have received notice of their rents doubling, rendering ongoing business
12 in Chinatown impossible. The impact of increased competition for valuable retail space in
13 Chinatown risks devastating the existing retail environment in Chinatown, and, in turn, driving
14 irreparable gentrification and displacement of historically lower income commercial tenants
15 and the resident immigrant communities they serve.

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

24 (h) While medicinal or recreational cannabis will still be readily accessible even if it is
25 not permitted to be sold within Chinatown's mixed use districts, the cultural and communal

1 considerations of Chinatown’s immigrant and lower-income populations have yet to be
2 addressed through language-appropriate and culturally sensitive educational and outreach
3 efforts. The City and County of San Francisco has an interest in and an obligation to facilitate
4 the accessible and responsible use of cannabis for both medicinal and recreational use, and it
5 has a simultaneous obligation to ensure that the industry grows and matures in a way that
6 respects the diverse cultural fabric of the City’s existing communities. These interests and
7 obligations are not rendered inconsistent by a prohibition on medicinal and retail cannabis
8 uses along the sensitive corridors and alleyways of San Francisco’s historic Chinatown.
9

10 Section 3. The Planning Code is hereby amended by revising Sections 803.2, 810,
11 811, and 812, to read as follows:
12

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

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

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

22 **TABLE 803.2 USE CATEGORIES PERMITTED IN THE**
23 **CHINATOWN MIXED USE DISTRICTS**
24
25

No.	Zoning Control Categories for Uses	Section Number of Use Definition
-----	------------------------------------	----------------------------------

* * * *

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

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

* * * *

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

* * * *

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

* * * *

1
2 **SEC. 810. CHINATOWN COMMUNITY BUSINESS DISTRICT.**

3 * * * *

4 **Table 810**

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

6 * * * *

No.	Zoning Category	§ References	Chinatown Community Business 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		
* * * *					

16
17 **SEC. 811. CHINATOWN VISITOR RETAIL DISTRICT.**

18 * * * *

19 **Table 811**

20 **CHINATOWN VISITOR RETAIL DISTRICT ZONING CONTROL TABLE**

21 * * * *

No.	Zoning Category	§ References	Chinatown Visitor Retail Controls by Story		
			1st	2nd	3rd+
Retail Sales and Services					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

.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	€		
Institutions					

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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: 

 PETER R. MILJANICH
 Deputy City Attorney
 n:\legana\as2018\1800492\01292075.docx



City and County of San Francisco

Tails Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 180319

Date Passed: September 04, 2018

Ordinance amending the Planning Code to prohibit Cannabis Retail and Medical Cannabis Dispensaries in the Chinatown Mixed Use Districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

July 16, 2018 Land Use and Transportation Committee - RECOMMENDED

July 24, 2018 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 9 - Cohen, Brown, Kim, Mandelman, Peskin, Ronen, Safai, Stefani and Yee

Excused: 2 - Fewer and Tang

July 24, 2018 Board of Supervisors - CONTINUED AS AMENDED ON FIRST READING

Ayes: 9 - Cohen, Brown, Kim, Mandelman, Peskin, Ronen, Safai, Stefani and Yee

Excused: 2 - Fewer and Tang

July 31, 2018 Board of Supervisors - PASSED ON FIRST READING

Ayes: 8 - Cohen, Fewer, Kim, Peskin, Safai, Stefani, Tang and Yee

Noes: 3 - Brown, Mandelman and Ronen

September 04, 2018 Board of Supervisors - FINALLY PASSED

Ayes: 8 - Cohen, Fewer, Kim, Peskin, Safai, Stefani, Tang and Yee

Noes: 3 - Brown, Mandelman and Ronen

File No. 180319

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
9/4/2018 by the Board of Supervisors of the
City and County of San Francisco.



Angela Calvillo
Clerk of the Board



London N. Breed
Mayor



Date Approved