



## MEMORANDUM

February 7, 2019

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Willie Adams, Vice President  
Hon. Gail Gilman  
Hon. Victor Makras  
Hon. Doreen Woo Ho

**FROM:** Elaine Forbes, Executive Director

**SUBJECT:** Informational Presentation on the City's Cannabis Policy and opportunity for cannabis business at the Port

**ACTION:** Informational, No Action

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### EXECUTIVE SUMMARY

As a matter of state law, California has legalized and regulated certain cannabis activity, including certain commercial cannabis activity. The San Francisco Office of Cannabis is responsible for developing and administering the city's cannabis permit process and other regulation of cannabis businesses in San Francisco. This staff report provides an informational overview of state and local laws applicable to cannabis businesses.

Port staff will be joined by Nicole Elliott, Director of San Francisco's Office of Cannabis, to present this information, and to solicit Port Commission questions and direction about cannabis business opportunities at the Port. Port staff recommend presenting this information to all Port Advisory Committees to solicit community questions, concerns and perspectives, and report back to the Port Commission.

### STRATEGIC PLAN

**Equity** - Ensure Port activities advance equity and public benefit and attract a diversity of people to the Waterfront.

**Productive** - Attract and retain tenants that build an economically viable Port.

**THIS PRINT COVERS CALENDAR ITEM NO. 11B**

**Stability** - Maintain the Port's financial strength by addressing deferred maintenance, maximizing the value of Port property, and increasing revenue.

## **INTRODUCTION**

As a matter of state law, California has legalized personal cannabis possession and use by all adults 21 and older. Additionally, California law has established a framework for the regulation of commercial cannabis activity, under which such activity is subject to both state and local regulation.

The San Francisco Office of Cannabis is chiefly responsible for administering the city's cannabis permit process and other regulation of cannabis businesses in San Francisco, consistent with provisions of the San Francisco Police Code, Planning Code, Health Code and Administrative Code. All businesses that engage in commercial cannabis activity (including cultivation, manufacturing, distribution, sale, and testing) in San Francisco must have both a city permit and a California license. This staff report provides an overview of state and local cannabis regulations.

San Francisco allows the following types of cannabis businesses, all of which require a Cannabis Business Permit:

- cultivator or grower (indoor)
- distributor
- manufacturer (volatile or non-volatile)
- retailer (medical and adult use)
- delivery only retailer (medical and adult use)
- medicinal cannabis retailer (medical only)
- testing laboratory
- microbusiness

San Francisco's Cannabis Program includes a Cannabis Equity Program, which is designed to lower barriers and foster equitable participation in the cannabis industry, particularly with respect to those negatively impacted by the War on Drugs. The Equity Program sets forth eligibility requirements for Equity Applicants, which avails lower permit fees and partnership opportunities with cannabis operators that provides rent free space for three years or technical assistance to run their businesses (<https://officeofcannabis.sfgov.org/equity>).

## **PERMITTED LOCATIONS**

Like other businesses in San Francisco, cannabis business must comply with the City's Planning Code and related zoning and use requirements. The San Francisco Planning Code and Zoning Map identify zoning classifications and properties where cannabis uses are allowed (<http://sfplanninggis.org/cannabisretail/>). Much of the Port's property

is zoned C-2, Community Business, or M-1, Light Industry and M-2, Heavy Industry, where cannabis retail and industrial establishments are principally permitted uses. The Port's large industrial pier sheds and warehouses appear to be well-suited for cultivation, manufacturing and distribution businesses. **Appendix A** provides more detailed description on cannabis use activities and zoning districts. Under City regulations, cannabis businesses are not allowed within 600 feet of a school or another medical cannabis or retail cannabis business.

Cannabis remains illegal under federal law, and commercial cannabis activity violates federal law even where it is conducted in compliance with applicable state and local laws. Cannabis's status under federal law raises complicated and important questions for San Francisco's cannabis industry and its potential partners. If Port staff or the Commission decide to pursue a policy allowing the lease of Port property for the distribution of cannabis products, before the policy is adopted staff will consult with the City Attorney about issues under federal law. Given the complicated nature of federal-law questions in this area, this presentation focuses on state and local law issues, rather than federal law.

The City's Cannabis Program includes requirements for design and operation of cannabis business premises (<https://officeofcannabis.sfgov.org/node/2705>). These include applicable security plan, odor ventilation design, water and utility requirements. Port industrial facilities may offer large industrial warehouse resources for cannabis cultivation, manufacturing and other light industrial operations, however, it is possible that substantial capital improvements would be required to comply with City laws and regulations and make needed repairs to the facility.

## **GOOD NEIGHBOR AND COMMUNITY OUTREACH**

The City's Cannabis Program requires cannabis applicants to develop a [Good Neighbor Policy](#) to outline how the business will physically interact with immediate neighbors, and to conduct [outreach for your neighbors](#) to get feedback on your Good Neighbor Policy. **Appendix B** provides more details on the Community Outreach Good Neighbor Policy requirements.

## **NEXT STEPS**

Port staff seeks comments and direction from the Port Commission about concerns or questions about state and local laws regulating commercial cannabis activity or cannabis opportunities on Port property. Port staff recommends that further research in this area include discussions with the Port's advisory groups (Fisherman's Wharf, Northeast Waterfront, Central Waterfront, Southern Waterfront, Maritime Commerce) as well as the Office of Cannabis and other relevant City departments.

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**APPENDIX A: [Zoning and Land Use Regulations Details]**

**APPENDIX B: Cannabis Community Outreach Strategy and Good Neighbor Policy**

# Appendix A:

## PERMITTED CANNABIS USE LOCATIONS ON PORT PROPERTY



# CANNABIS RELATED LAND USE (PLANNING CODE SECTION 102)

## **AGRICULTURE AND BEVERAGE PROCESSING 2**

The manufacture of cannabis products or extracts that are derived by using volatile organic compounds (any use requiring License Type 7—Manufacturer 2, as defined in California Business and Professions Code, Division 10).

## **LIGHT MANUFACTURING**

Manufacture of cannabis products or cannabis extracts that are derived without the use of volatile organic compounds (any use requiring License Type 6—Manufacturer 1, as defined in California Business and Professions Code, Division 10).

## **INDUSTRIAL AGRICULTURE**

This use includes, but is not limited to, plant nurseries and cannabis cultivation operations, and is subject to the location and operating conditions listed in Section 202.2(c). For the cultivation of cannabis, this definition includes all cultivation pursuant to state license types that allow for indoor and/or mixed-light cultivation with up to 22,000 sq. ft. of canopy.

## **LABORATORY**

Cannabis testing facility (any use requiring License Type 8—Testing Laboratory, as defined in California Business and Professions Code, Division 10).

## **PARCEL DELIVERY SERVICE**

A Non-Retail Automotive Use limited to facilities for the unloading, sorting, and reloading of local retail merchandise for home deliveries, including but not limited to cannabis and cannabis products, where the operation is conducted entirely within a completely enclosed building. Where permitted in PDR Districts, this use is not required to be operated within a completely enclosed building.

## **WHOLESALE**

A Non-Retail Sales and Service Use that exclusively provides goods or commodities for resale or business use, including accessory storage. This use includes cannabis distribution (any use requiring License Type 11—Distributor, as defined in California Business and Professions Code, Division 10).

## **CANNABIS RETAIL**

A Retail Sales and Service Use that sells or otherwise provides cannabis and cannabis-related products for adult use, and that may also include the sale or provision of cannabis for medicinal use. A Cannabis Retail establishment may only be operated by the holder of (a) a valid license from the State of California (License Type 10—Retailer, as defined in California Business and Professions Code, Division 10) and (b) a valid permit from the City's Office of Cannabis.

## **MEDICAL CANNABIS DISPENSARY**

An Institutional Healthcare Use that is either (a) a cooperative or collective operating under the authority of a permit issued by the Director of Health under Article 33 of the Health Code, or (b) a Medicinal Cannabis Retailer as defined in Police Code Section 1602. A Medical Cannabis Dispensary Use is permitted only if it meets the conditions listed in Section 202.2(e).

# LAND USE REGULATIONS

## ZONING DISTRICTS WITHIN PORT PROPERTY

LAND USE	C-2	PDR-1-G	PDR-2	M-1	M-2
AGRICULTURE AND BEVERAGE PROCESSING 2	NP	C	C	NP	P
LIGHT MANUFACTURING	NP	P	P	P	P
INDUSTRIAL AGRICULTURE	P	C	C	P	P
LABORATORY	NP	P	P	P	P
PARCEL DELIVERY SERVICE (BUSINESS SERVICES 890.111)	C	P	P	P	P
WHOLESALE	NP	P	P	P	P
CANNABIS RETAIL	P	P*	P*	P	P
MEDICAL CANNABIS DISPENSARY	P	P*	P*	P	P

P = PERMITTED

NP = NOT PERMITTED

C = CONDITIONAL

\* SUBJECT TO SIZE LIMITS AND 2/3 OF PREMISES BEING USED FOR CANNABIS PDR UNDER STATE MICROBUSINESS LICENSE

## **APPENDIX B: Cannabis Community Outreach Strategy & Good Neighbor Policy**

(San Francisco Office of Cannabis, January 2019)

### **Community Outreach Strategy**

(January 2019)

#### **Background**

Pursuant to Section 1609 of the San Francisco Police Code, every Cannabis Business Permit Applicant is required to conduct community outreach to notify neighbors of the Applicant Entity's intent to seek Cannabis Business Permit(s) and to inform the development of the Applicant Entity's Good Neighbor Policy.

The following rules apply to the Community Outreach Strategy and further outline application requirements.

#### **Definitions**

Where these rules use terms defined in Article 16 of the Police Code, the Article 16 definitions of those terms shall also apply to these rules.

"Neighbors" means property owners and tenants within 300 feet of the proposed Cannabis Business Permit premises.

#### **Rules**

##### **Mandatory Requirements for Community Outreach Strategy**

- c. Cannabis Business Permit Applicant's Community Outreach Strategy must, at a minimum, include the following strategies:
  - a. Applicants must hold a minimum of one noticed community meeting with neighbors to seek input on the Applicant's Good Neighbor Policy.
    1. The meeting should be conducted at the project site or within a one-mile radius.
      - A. Applicants may request to host their community meeting at an alternative location. This request must be made by the Applicant in writing and submitted to the Office of Cannabis for approval.
    2. Weeknight meetings shall occur between 6:00pm- 9:00pm PT.
    3. Weekend meetings shall be between 10:00am- 9:00pm PT.
  - b. Prior to holding the community meeting, Applicants must provide neighbors with a notice that includes:
    1. Information associated with the Applicant's proposed neighborhood meeting(s), including date, time and location.
    2. Alternative ways neighbors may provide input on the content of the Applicant's Good Neighbor Policy if neighbors are unable to attend the Applicant's community meeting. This must include a method for neighbors to convey input in writing to the Applicant.
    3. The name, phone number and email address of an onsite manager or community relations staff person who may be contacted by neighbors if they experience any problems associated with operation of the establishment.
      - A. If a community relations staff person is not yet designated for the proposed Cannabis Business Permit, the Applicant may provide this information to



neighbors at a different time, but the notice must be issued by the Applicant to neighbors prior to application completion and a copy of this notice must be provided to the Office of Cannabis.

- c. The Applicant shall share the final date, location and time of this community with the Office of Cannabis and the office of the district Supervisor no less than 272 hours prior to the meeting occurring.
- d. All materials and notices developed and distributed to neighbors by the Applicant as part of its Community Outreach Strategy must be translated into the languages required by the Language Access Ordinance, Administrative Code [Chapter 91](#).

#### **Mandatory Cannabis Business Permit Application Submissions**

- d. The Applicant must attest that the Applicant has engaged in a Community Outreach Strategy to advise residential and commercial neighbors of its intent to apply for a Cannabis Business Permit, and to solicit input on the Applicant Entity's Good Neighbor Policy.
- e. The Applicant must provide to the Office of Cannabis all material documents demonstrating the required outreach was done, including but not limited to:
  - 1. Any written notice provided to neighbors informing them of the Applicant's intent to open a cannabis business
  - 2. Sign-in sheets
  - 3. Minutes
  - 4. Copies of any materials provided to neighbors
  - 5. The list of neighbors to whom the meeting notice, including names and addresses
  - 6. If the Applicant provided neighbors with the name, phone number and email address of an onsite manager or community relations staff person via a separate notice pursuant to rule (a)(2)(C)(i) of this Rule, the applicant must provide the Office of Cannabis with a copy of this notice

### **Cannabis Good Neighbor Policy**

(San Francisco Office of Cannabis, January 2019)

#### **Background**

Pursuant to Section 1609 of the San Francisco Police Code, every Cannabis Business Permit Applicant is required to submit to the Office of Cannabis a Good Neighbor Policy as part of the permit application.

The following rules apply to the development of the Good Neighbor Policy and further outline application requirements.

#### **Definitions**

Where these rules use terms defined in Article 16 of the Police Code, the Article 16 definitions of those terms shall also apply to these rules.

"Neighbors" means property owners and tenants within 300 feet of the proposed Cannabis Business Permit premises.

#### **Rules**

##### **Mandatory Requirements for Good Neighbor Policy Development**

- e. The development of a Good Neighbor Policy shall be reasonably informed by input solicited during the Cannabis Business Permit Community Outreach pursuant to Section 1609(b)(24) of the Police Code.
- f. When notifying neighbors of the mandatory community meeting pursuant to Police Code Section 1609(b)(24), Community Outreach Rule (a)(1), applicants must provide neighbors with a version of the proposed Good Neighbor Policy, which shall include at a minimum the mandatory Good Neighbor Conditions associated with the Cannabis Business Permit(s) being sought for that location.

#### **Mandatory Good Neighbor Conditions for Cannabis Business Permit Holders**

- f. For all Cannabis Business Permits Applicants, the Good Neighbor Policy shall include, but may not be limited to a commitment to:
  - 1. Provide outside lighting in a manner that illuminates the outside street and sidewalk areas and adjacent parking as appropriate.
  - 2. Provide adequate and appropriate ventilation to prevent any significant noxious or offensive odors from escaping the premises, pursuant to 1618(v).
  - 3. Maintain the premises, adjacent sidewalk and/or alley in good condition at all times.
- g. Cannabis Business Permits Applicants seeking a Cannabis Retailer, Medicinal Retailer, or Microbusiness Permit that will include storefront retail, shall also include a commitment to:
  - 1. Prohibit patrons from double-parking directly outside the premises.
  - 2. Prohibit loitering in or around the premises.
  - 3. Prohibit littering in or around the premises.
  - 4. Prohibit the consumption of cannabis products around the premises.
  - 5. Post notices on the premises that:
    - A. Direct patrons to leave the establishment and neighborhood peaceful and in an orderly fashion.
    - B. Direct patrons to not litter or block driveways.
    - C. Advise individuals of the prohibition on loitering.
    - D. Advise individuals that smoking of cannabis is prohibited in public places.
  - 6. Ensure notices are clear, well-lit, prominently displayed and maintained at all public entrances to and exits from the establishment.
  - 7. Secure the premises within 50 feet of any public entrance and exit.
- h. Cannabis Business Permit Applicants seeking Cannabis Retailer, Medicinal Retailer, or Microbusiness Permits that also intend to seek consumption permits from the Department of Public Health shall also include a commitment to:
  - 1. Post clear and prominent “No Smoking” signs in any area of the premises where smoking is prohibited.
  - 2. Post clear and prominent “No Consuming Cannabis” signs in any area of the premises where the consumption of cannabis and cannabis products is prohibited.
  - 3. Ensure notices are well-lit, prominently displayed and maintained.
  - 4. Prohibit any person on the premises from smoking or consuming cannabis or cannabis products where smoking or consumption are prohibited.

#### **Mandatory Cannabis Business Permit Application Submissions**

- i. The Applicant must provide to the Office of Cannabis an attestation, on behalf of the Applicant Entity, that the Applicant has engaged in a Community Outreach Strategy to solicit input on the Applicant Entity’s Good Neighbor Policy.
- j. The Applicant must provide to the Office of Cannabis a copy of the actual correspondence provided to residential and commercial neighbors within 300 feet of the proposed premises,

pursuant to Section 1609(b)(19)(A) of the Police Code, as well as the full name, title, email, phone number, and mailing address of the Applicant Entity's designated community liaison.

1. Maintaining the community liaison contact with the neighbors and the Office of Cannabis is an ongoing requirement.
  2. Any changes to the community liaison should be promptly reported to the Office of Cannabis.
- k. Copies of any written input provided to the Applicant by neighbors related to the Applicant's Good Neighbor Policy.
- l. Any additional commitments made by the Applicant Entity other than those listed in "Mandatory Conditions for Cannabis Business Permit Holders" shall be submitted to the Office of Cannabis as part of the Cannabis Business Permit Application.

**Compliance with Permit Conditions**

- m. All commitments in a Good Neighbor Policy, once approved by the Office of Cannabis, shall be conditions of any Cannabis Business Permit issued pursuant to Section 1615 of the Police Code.
- n. Violations of any condition agreed to in a Permittee's Good Neighbor Policy shall be treated as a violation of a permit condition as set forth in Police Code Section 1612, 1615, and 1617, and other applicable laws.
- o. Changes to a Permittee's Good Neighbor Policy shall not occur without prior express, written approval of the Office of Cannabis.
- p. A Permittee may request a permit amendment to remove or change a condition of their Good Neighbor Policy by filing a request with the Office of Cannabis pursuant to Section 1617(c) of the Police Code.