

BOARD of SUPERVISORS



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MEMORANDUM

Date: July 19, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230817
Interim Zoning Controls - Extending and Modifying Conditional Use Authorization
Requirement for Parcel Delivery Service Uses

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

1 [Interim Zoning Controls - Extending and Modifying Conditional Use Authorization
2 Requirement for Parcel Delivery Service Uses]

3 **Resolution extending and modifying interim zoning controls enacted in Resolution No.**
4 **109-22, to require a Conditional Use authorization for proposed Parcel Delivery Service**
5 **uses, and to modify those interim controls in two ways: 1) to apply to Parcel Delivery**
6 **Services uses greater than 10,000 square feet; and 2) to use the definition of Parcel**
7 **Delivery Services that was in effect as to the effective date of Resolution No. 109-22;**
8 **affirming the Planning Department’s determination under the California Environmental**
9 **Quality Act; and making findings of consistency with the General Plan, and the eight**
10 **priority policies of Planning Code, Sections 101.1 and 306.7.**

11
12 WHEREAS, Planning Code, Section 306.7 authorizes the Board of Supervisors (the
13 “Board”) to impose interim controls to allow time for orderly completion of a planning study
14 and for the adoption of appropriate legislation, which are necessary to ensure that the
15 legislative scheme that may be ultimately adopted is not undermined during the planning and
16 legislative process by the approval or issuance of permits authorizing changes of use that
17 could conflict with that scheme; and

18 WHEREAS, The Planning Department is evaluating the current zoning controls for new
19 Parcel Delivery Service uses in San Francisco, and is considering potential zoning
20 amendments and other policy approaches to address these issues; and

21 WHEREAS, On March 31, 2022, the Mayor approved Resolution No. 109-22, which
22 imposed interim controls for an 18-month period, expiring on September 30, 2023, to require a
23 Conditional Use authorization for proposed Parcel Delivery Service uses; and

24 WHEREAS, The circumstances that caused the Board to adopt the interim controls in
25 Resolution No. 109-22 continue to exist; and

1 WHEREAS, In adopting those interim controls, the Board found that it is necessary for
2 the City to further study and assess new Parcel Delivery Service uses as a component of the
3 City's future development; and

4 WHEREAS, The Board has determined that the public health, safety and welfare will
5 best be served by extension of these interim zoning controls at this time, to ensure that any
6 legislative scheme that the Board may ultimately adopt to regulate Parcel Delivery Service
7 uses will not be undermined during the planning and legislative process; and

8 WHEREAS, The Board finds that these interim controls are consistent with the General
9 Plan, in that they satisfy Commerce and Industry Element Objective 1 to "manage economic
10 growth and change to ensure enhancement of the total city living and working environment,"
11 and that they do not conflict with any other aspects of the General Plan; and

12 WHEREAS, The following General Plan Policies of the Commerce and Industry
13 Element are specifically and particularly advanced by these interim controls:

- 14 • "Policy 1.2: Assure that all commercial and industrial uses meet minimum,
15 reasonable performance standards." Imposition of interim zoning controls while the
16 City properly studies the rapidly evolving parcel delivery service industry and
17 analyzes the region's quickly evolving logistics industry will allow the City to study
18 the range of impacts of Parcel Delivery Service uses, and to specifically tailor
19 minimum and reasonably practicable performance standards that accurately reflect
20 current conditions. This will allow for orderly development of Parcel Delivery Service
21 uses.
- 22 • "Policy 3.1: Promote the attraction, retention and expansion of commercial and
23 industrial firms which provide employment improvement opportunities for unskilled
24 and semi-skilled workers." Parcel Delivery Service uses generally require a
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1 significant amount of space. Allowing the establishment of new Parcel Delivery
2 Service uses without conditional use authorization while permanent controls for this
3 type of use are being considered could preclude other uses on those parcels, where
4 such other uses may create more job opportunities for unskilled and semi-skilled
5 workers; and

6 WHEREAS, For the reasons stated above, the Board finds that these interim
7 controls support the development and conservation of the commerce and industry of the City
8 in order to maintain the economic vitality of the City, to provide its citizens with adequate jobs
9 and business opportunities, and to maintain adequate services for its residents, visitors,
10 businesses and institutions, consistent with Planning Code, Section 306.7; and

11 WHEREAS, The extension of the interim controls established by this Resolution will
12 allow time for the orderly completion of a planning study and for the adoption of appropriate
13 legislation; and

14 WHEREAS, Planning Code, Section 306.7(h), authorizes the Board to extend the
15 interim controls up to a time period not to exceed 24 months; and

16 WHEREAS, The Board finds that these interim zoning controls do not have an effect on
17 and therefore are consistent with Priority Policy Nos. 1, 2, 3, 4, 5, 6, 7, and 8 of Planning
18 Code, Section 101.1; and

19 WHEREAS, The Planning Department has determined that the actions contemplated in
20 this Resolution comply with the California Environmental Quality Act (Pub. Res. Code,
21 Sections 21000 et seq.), which determination is on file with the Clerk of the Board in File No.
22 _____ and is incorporated herein by reference, and the Board affirms this determination;
23 now, therefore, be it

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1 RESOLVED, That the interim controls imposed by Resolution No. 109-22 are hereby
2 extended and modified as set forth herein, and shall remain in effect until March 30, 2024, or
3 until the adoption of permanent legislation that addresses substantially the same issues,
4 whichever first occurs; and, be it

5 FURTHER RESOLVED, That, except as specified herein, any proposed Parcel
6 Delivery Service use, as defined in Section 102 of the Planning Code on March 31, 2022, that
7 is greater than 10,000 square feet, shall require Conditional Use Authorization pursuant to
8 Planning Code, Section 303, while these Interim Zoning Controls are in effect; and, be it

9 FURTHER RESOLVED, That, notwithstanding that Conditional Use Authorization
10 requirement, a temporary Parcel Delivery Service use at a given location may be authorized,
11 subject to all requirements of the Planning Code, for a single period not to exceed 60 days
12 once within a 12-month period, without the possibility of a renewal or subsequent approval
13 during the 12-month period; and, be it

14 FURTHER RESOLVED, That the Planning Department shall provide reports to the
15 Board pursuant to Planning Code, Section 306.7(i).

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17 APPROVED AS TO FORM:
18 DAVID CHIU, City Attorney

19 By: /s/ Andrea Ruiz-Esquide
20 ANDREA RUIZ-ESQUIDE
21 Deputy City Attorney

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