

1 [Interim Zoning Controls - Indoor Agriculture]

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3 **Resolution creating interim zoning controls to require conditional use authorization for**
4 **indoor Agriculture uses, as defined in Planning Code Section 102, and other indoor**
5 **agriculture uses in Production, Distribution and Repair zoning districts; making**
6 **findings of consistency with the eight priority policies of Planning Code Section 101.1;**
7 **and affirming the Planning Department’s determination under the California**
8 **Environmental Quality Act.**

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10 WHEREAS, Planning Code Section 306.7 provides for the imposition of interim zoning
11 controls to accomplish several objectives, including preservation of residential and mixed
12 residential and commercial areas in order to preserve the existing character of such
13 neighborhoods and areas, and development and conservation of the commerce and industry
14 of the City in order to maintain the economic vitality of the City, to provide its citizens with
15 adequate jobs and business opportunities, and to maintain adequate services for its residents,
16 visitors, businesses and institutions; and

17 WHEREAS, Policy 2 of the eight priority policies of the City’s General Plan and of
18 Planning Code Section 101.1 establishes a policy “That existing housing and neighborhood
19 character be conserved and protected in order to preserve the cultural and economic diversity
20 of our neighborhoods”; and

21 WHEREAS, indoor Agriculture uses, as defined in Planning Code Section 102, and
22 other indoor agriculture uses frequently involve cultivation of medical cannabis; and

23 WHEREAS, California’s Proposition 64, the Adult Use of Marijuana Act (AUMA), was
24 passed by the voters on November 8, 2016, permitting commercial cultivation of cannabis for
25 nonmedical purposes, subject to a state licensing requirement; and

1 WHEREAS, Production, Distribution and Repair (PDR) zoning districts are areas in
2 which commercial cannabis cultivation businesses may wish to locate; and

3 WHEREAS, The office of Mayor Edwin M. Lee, the Planning Department, the Office of
4 Economic and Workforce Development and industry stakeholders are considering the
5 recommendations of the San Francisco Cannabis State Legalization Task Force and
6 engaging in broader discussions about amending and updating the existing Planning Code
7 land use controls to allow for cultivation, manufacturing and distribution while ensuring San
8 Francisco’s policy goals for PDR-zoned areas are maintained; and

9 WHEREAS, An over-concentration of commercial cannabis cultivation businesses may
10 have a negative impact on the character of neighborhoods within PDR zoning districts, and on
11 the commerce and industry of the City, including within PDR zoning districts; and

12 WHEREAS, It is important that commercial cannabis cultivation operations adequately
13 address public health, safety and general welfare concerns, for example, by having adequate
14 security measures; and

15 WHEREAS, These interim zoning controls advance and are consistent with Policy 2 of
16 the Priority Policies set forth in Planning Code Section 101.1, in that they address the impacts
17 of proposed cannabis cultivation businesses on neighborhood character in PDR zoning
18 districts; and

19 WHEREAS, With respect to Priority Policies 1, 3, 4, 5, 6, 7 and 8, the Board finds that
20 these interim zoning controls do not, at this time, have an effect upon these policies, and thus,
21 will not conflict with said policies; and

22 WHEREAS, Adoption of these interim zoning controls will allow the Board of
23 Supervisors time to consider how to regulate commercial cannabis cultivation in PDR zoning
24 districts; and

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1 WHEREAS, The Board has considered the impact on the public health, safety, peace,
2 and general welfare if the interim zoning controls proposed herein are not imposed; and

3 WHEREAS, The Board has determined that the public interest will be best served by
4 imposition of these interim zoning controls at this time, to ensure that the legislative scheme
5 that may be ultimately adopted is not undermined during the planning and legislative process
6 for permanent controls; and

7 WHEREAS, The Planning Department has determined that the actions contemplated in
8 this Resolution are in compliance with the California Environmental Quality Act (California
9 Public Resources Code Section 21000 et. seq.). Said determination is on file with the Clerk of
10 the Board of Supervisors in File No. 161241 and is hereby affirmed and incorporated by
11 reference as though fully set forth; now, therefore, be it

12 RESOLVED, That pursuant to Planning Code Section 306.7, the City hereby requires
13 that, as of the effective date of this Resolution, any proposed indoor Agriculture use, as
14 defined in Planning Code Section 102, as well as any other proposed indoor agriculture use,
15 that is located in a PDR zoning district must obtain conditional use authorization from the
16 Planning Commission, pursuant to Planning Code Section 303; and, be it

17 FURTHER RESOLVED, That these interim zoning controls advance and are consistent
18 with Policy 2 of the Priority Policies set forth in Planning Code Section 101.1, in that they
19 require consideration of a proposed cannabis cultivation business’s impacts on neighborhood
20 character in PDR zoning districts, by requiring conditional use authorization for this new use;
21 and, be it

22 FURTHER RESOLVED, That these interim zoning controls shall remain in effect for six
23 months from the effective date of this Resolution, or until the adoption of permanent legislation
24 regulating commercial cannabis cultivation in PDR zoning districts, whichever first occurs;
25 and, be it

1 FURTHER RESOLVED, That these interim zoning controls shall not apply to a building
2 permit application for a new indoor Agriculture use, as defined in Planning Code Section 102,
3 or for any other proposed new indoor agriculture use, where, on or before November 8, 2016,
4 the permit applicant either (1) applied to the Department of Building Inspection (DBI) for the
5 building permit, or (2) attempted to apply to the Department of Public Health for the building
6 permit and was not referred to DBI until after November 8, 2016; and, be it

7 FURTHER RESOLVED, That any expansion of an existing indoor Agriculture use, as
8 defined in Planning Code Section 102, or of any other indoor agriculture use, shall not be
9 subject to these controls so long as the space in which the expansion would occur is on the
10 same parcel as, contiguous with, and accessed directly from, the existing establishment.

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13 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

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15 By: _____
VICTORIA WONG
16 Deputy City Attorney

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