

BOARD of SUPERVISORS



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MEMORANDUM

TO: William Scott, Police Chief, Police Department
Mohammed Nuru, Director, Public Works
Ed Reiskin, Executive Director, Municipal Transportation Agency
John Rahaim, Director, Planning Department

FROM: Erica Major, Assistant Clerk, Public Safety and Neighborhood Services
Committee, Board of Supervisors

DATE: May 23, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Yee on May 16, 2017:

File No. 170599

Ordinance amending the Public Works Code to prohibit the operation of autonomous delivery devices on sidewalks and right-of-ways within the jurisdiction of Public Works, amending the Police Code to provide for administrative, civil, or criminal penalties for unlawful operation of autonomous delivery devices; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Rowena Carr, Police Department
Kristine Demafeliz, Police Department
Jennifer Blot, Public Works
John Thomas, Public Works
Lena Liu, Public Works
Janet Martinsen, Municipal Transportation Agency
Kate Breen, Municipal Transportation Agency
Dillon Auyoung, Municipal Transportation Agency
Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Jeanie Poling, Planning Department

1 [Public Works, Police Codes - Prohibiting Autonomous Delivery Devices on Sidewalks and
2 Right-of-Ways]

3 **Ordinance amending the Public Works Code to prohibit the operation of autonomous**
4 **delivery devices on sidewalks and right-of-ways within the jurisdiction of Public Works,**
5 **amending the Police Code to provide for administrative, civil, or criminal penalties for**
6 **unlawful operation of autonomous delivery devices; and affirming the Planning**
7 **Department's determination under the California Environmental Quality Act.**

8
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. The Planning Department has determined that the actions contemplated in
18 this ordinance comply with the California Environmental Quality Act (California Public
19 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
20 Board of Supervisors in File No. ___ and is incorporated herein by reference. The Board
21 affirms this determination.

22 Section 2. The Public Works Code is hereby amended by adding Section 723.4, to
23 read as follows:

24 **SEC. 723.4. AUTONOMOUS DELIVERY DEVICES PROHIBITED ON PUBLIC RIGHT-**
25 **OF-WAYS.**

1 (a) "Autonomous Delivery Device" means a motorized device used to transport items,
2 products, or any other materials, and guided or controlled without a human operator sitting or
3 standing upon and actively and physically controlling the movements of the device.

4 (b) It shall be unlawful for any person, including but not limited to natural persons and
5 businesses, to operate an Autonomous Delivery Device in or on any public sidewalk or right-of-way.
6 Operation of an Autonomous Delivery Device in violation of this subsection (b) shall be, and is hereby
7 declared, a public nuisance.

8 (c) **Criminal Penalty.** Any person who violates subsection (b) shall be guilty of a
9 misdemeanor for each trip during which such violation occurs. Any person convicted of a misdemeanor
10 hereunder shall be punishable by a fine of not more than \$1,000 or by imprisonment in the County Jail
11 for a period of not more than six months, or by both.

12 (d) **Civil Penalty.**

13 (1) The Director may call upon the City Attorney to maintain an action for injunction to
14 restrain or summary abatement to cause the correction or abatement of the violation of subsection (b)
15 and for assessment and recovery of a civil penalty and reasonable attorney's fees for such violation.

16 (2) Any person who violates subsection (b) may be liable for a civil penalty, not to
17 exceed \$500 for each day such violation is committed or permitted to continue, which penalty shall be
18 assessed and recovered in a civil action brought in the name of the people of the City by the City
19 Attorney in any court of competent jurisdiction. In assessing the amount of the civil penalty, the court
20 may consider any one or more of the relevant circumstances presented by any of the parties to the case,
21 including, but not limited to, the following: the nature and seriousness of the misconduct, the number of
22 violations, the persistence of the misconduct, the length of time over which the misconduct occurred,
23
24
25

1 the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth. The
2 City Attorney may seek recovery of attorney's fees and costs incurred in bringing a civil action
3 pursuant to this subsection (d).

4 (e) **Administrative Penalty.** In addition to the criminal or civil penalties authorized by
5 subsections (c) and (d), Department of Public Works employees designated in Section 38 of the Police
6 Code may issue administrative citations for such violations. The administrative penalty shall not exceed
7 \$1,000 per day for each violation. Such penalty shall be assessed, enforced, and collected in
8 accordance with Section 39-1 of the Police Code.

9
10 Section 3. The Police Code is hereby amended by revising Section 39-1, to read as
11 follows:

12 **SEC. 39-1. PROCEDURE FOR ASSESSMENT AND COLLECTION OF**
13 **ADMINISTRATIVE PENALTIES FOR SPECIFIED LITTERING AND NUISANCE**
14 **VIOLATIONS.**

15 (a) This Section shall govern the imposition, assessment and collection of
16 administrative penalties imposed pursuant to Sections 37, 38, and 63 of the Police Code,
17 Sections 41.13, 283.1, 287, 288.1, and 600 of the Health Code, and Sections 170, 173, 174,
18 174.2, 723.4, and 724.5 of the Public Works Code.

19 * * * *

20
21 Section 4. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.
25

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

7 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word
8 of this ordinance, or any application thereof to any person or circumstance, is held to be
9 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
10 shall not affect the validity of the remaining portions or applications of the ordinance. The
11 Board of Supervisors hereby declares that it would have passed this ordinance and each and
12 every section, subsection, sentence, clause, phrase, and word not declared invalid or
13 unconstitutional without regard to whether any other portion of this ordinance or application
14 thereof would be subsequently declared invalid or unconstitutional.

15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By:


19 MARLENA BYRNE
20 Deputy City Attorney

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LEGISLATIVE DIGEST

[Public Works, Police Codes - Prohibiting Autonomous Delivery Devices on Sidewalks and Right-of-Ways]

Ordinance amending the Public Works Code to prohibit the operation of autonomous delivery devices on sidewalks and right-of-ways within the jurisdiction of Public Works, amending the Police Code to provide for administrative, civil, or criminal penalties for unlawful operation of autonomous delivery devices; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

Current municipal law does not prohibit the operation of autonomous delivery devices in or on public streets or sidewalks.

Amendments to Current Law

The proposed ordinance would amend the San Francisco Public Works and Police Codes to prohibit the operation of autonomous (these could also be described as “robotic”) delivery devices in or on public streets and sidewalks in the City of San Francisco. The proposed ordinance establishes criminal, civil, and administrative penalties for any unlawful operation of such devices.

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