

1 [Extending Interim Zoning Controls - Indoor Agriculture]

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3 **Resolution extending interim zoning controls to require conditional use authorization**  
4 **for 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.**

9

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

17 WHEREAS, Policy 2 of the eight priority policies of the General Plan and of Planning  
18 Code, Section 101.1 establishes a policy “That existing housing and neighborhood character  
19 be conserved and protected in order to preserve the cultural and economic diversity of our  
20 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, On January 24, 2017, the Board adopted Resolution No. 15-17, which  
16 imposed interim zoning controls requiring that any proposed indoor Agriculture use, as  
17 defined in Planning Code Section 102, as well as any other proposed indoor agriculture use,  
18 that is located in a PDR zoning district must obtain conditional use authorization from the  
19 Planning Commission, pursuant to Planning Code Section 303; and

20           WHEREAS, The circumstances that led to the adoption of Resolution No. 15-17 still  
21 persist today; and

22           WHEREAS, The extension of the interim zoning controls adopted by the Board in  
23 Resolution No. 15-17 advances and is consistent with Policy 2 of the priority policies set forth  
24 in Planning Code Section 101.1, in it addresses the impacts of proposed cannabis cultivation  
25 businesses on neighborhood character in PDR zoning districts; and

1           WHEREAS, With respect to priority policies 1, 3, 4, 5, 6, 7 and 8, the Board finds that  
2 extending these interim zoning controls does not, at this time, have an effect upon these  
3 policies, and thus, will not conflict with said policies; and

4           WHEREAS, Adoption of this extension of interim zoning controls will allow the Board of  
5 Supervisors time to consider how to regulate commercial cannabis cultivation in PDR zoning  
6 districts; and

7           WHEREAS, The Board has considered the impact on the public health, safety, peace,  
8 and general welfare if the extension of interim zoning controls proposed herein is not  
9 imposed; and

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

14          WHEREAS, The Planning Department has determined that the actions contemplated in  
15 this Resolution are in compliance with the California Environmental Quality Act (California  
16 Public Resources Code Section 21000 et. seq.); said determination is on file with the Clerk of  
17 the Board of Supervisors in File No. 170783 and is hereby affirmed and incorporated by  
18 reference as though fully set forth; now, therefore, be it

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

24          FURTHER RESOLVED, That the extension of these interim zoning controls advances  
25 and is consistent with Policy 2 of the priority policies set forth in Planning Code, Section

1 101.1, in that it requires consideration of a proposed cannabis cultivation business's impacts  
2 on neighborhood character in PDR zoning districts, by requiring conditional use authorization  
3 for this new use; and be it

4 FURTHER RESOLVED, That this extension of interim zoning controls shall remain in  
5 effect for twelve months from the expiration of the interim controls established by Resolution  
6 No. 15-17, or until the adoption of permanent legislation regulating commercial cannabis  
7 cultivation in PDR zoning districts, whichever first occurs; and be it

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

15 FURTHER RESOLVED, That any expansion of an existing indoor Agriculture use, as  
16 defined in Planning Code Section 102, or of any other indoor agriculture use, shall not be  
17 subject to these controls so long as the space in which the expansion would occur is on the  
18 same parcel as, contiguous with, and accessed directly from, the existing establishment.  
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21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By: \_\_\_\_\_  
24 VICTORIA WONG  
25 Deputy City Attorney

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