

1 ~~[Public Works, Police Codes - Prohibiting Autonomous Delivery Devices on Sidewalks and~~
2 ~~Right-of-Ways Requiring a Permit for Testing of Autonomous Delivery Devices on Sidewalks]~~

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 **require a permit for the testing of autonomous delivery devices on sidewalks;**
6 **amending the Police Code to provide for administrative, civil, or criminal penalties for**
7 **unlawful operation of autonomous delivery devices; and affirming the Planning**
8 **Department’s determination under the California Environmental Quality Act.**

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. 170599 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~~ 794, to
23 read as follows:

24 **~~SEC. 723.4. AUTONOMOUS DELIVERY DEVICES PROHIBITED ON PUBLIC~~**
25 **~~RIGHT-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-
6 of-way. Operation of an Autonomous Delivery Device in violation of this subsection (b) shall
7 be, and is hereby 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
10 misdemeanor hereunder shall be punishable by a fine of not more than \$1,000 or by
11 imprisonment in the County Jail 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
14 injunction to restrain or summary abatement to cause the correction or abatement of the
15 violation of subsection (b) and for assessment and recovery of a civil penalty and reasonable
16 attorney's fees for such violation.

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

1 Attorney may seek recovery of attorney's fees and costs incurred in bringing a civil action
2 pursuant to this subsection (d).

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

8 **SEC. 794. AUTONOMOUS DELIVERY DEVICES ON SIDEWALKS – PERMIT**
9 **REQUIRED.**

10 (a) **Purpose.** “Autonomous Delivery Device” means a motorized device used to
11 transport items, products, or any other materials on City sidewalks for commercial purposes,
12 and guided or controlled without a human operator sitting or standing upon and actively and
13 physically controlling the movements of the device. The purpose of this Section is to establish
14 a permit program to authorize and regulate the operation of Autonomous Delivery Devices on
15 City sidewalks for the limited purposes of testing for research and development (“Testing”) for
16 anticipated commercial uses. Under this Section, the operation of Autonomous Delivery
17 Devices for any other purpose is prohibited. This Section shall not govern the operation of
18 Autonomous Delivery Devices on City streets and highways subject to the exclusive
19 jurisdiction of the San Francisco Municipal Transportation Agency (“SFMTA”).

20 (b) **Permit Required.** It shall be unlawful for any person, including but not limited to
21 natural persons and businesses, to operate an Autonomous Delivery Device in, on, or above
22 any public sidewalk (as defined in Article 2.4 of the Public Works Code) without a permit,
23 except as may be otherwise authorized under the laws and regulations of the United States of
24 America or the State of California. Operation of an Autonomous Delivery Device in violation
25 of this subsection (b) shall be, and is hereby declared, a public nuisance.

1 (c) Public Works Director’s Administration of Permit. The Public Works Director
2 shall administer all Autonomous Delivery Device permits pursuant to the requirements, rules,
3 and regulations set forth in this Section 794 or in orders, regulations, or procedures that the
4 Public Works Director shall adopt as he or she deems necessary to preserve and maintain the
5 public health, safety, welfare, and convenience (“Regulations”). Such Regulations may
6 include, but are not limited to, permit application materials, placement of and information
7 contained on signs, site conditions, accessibility of sidewalks and streets. When such
8 Regulations may affect the operations and enforcement of the SFMTA, the Public Works
9 Director shall consult with the General Manager of the SFMTA prior to adoption of such
10 Regulations.

11 (d) Restrictions on Duration and Number of Autonomous Delivery Device
12 Permits. Notwithstanding the authority granted to the Public Works Director under subsection
13 (c), the following restrictions shall apply to Autonomous Delivery Device permits.

- 14 (1) No permit issued under this Section shall remain valid for longer than 60
15 days.
- 16 (2) No permit shall authorize the Testing of more than two (2) Autonomous
17 Delivery Devices for each permittee.
- 18 (3) No more than three (3) active permits are allowed at any time.

19 (d) Application Process. The content of permit applications shall comply with the
20 Public Works Director’s Regulations. All applications shall be on forms prescribed therefor
21 and shall contain or be accompanied by all information required to assure the presentation of
22 pertinent facts for proper consideration of the application. The applicant shall provide the
23 following information as part of the application submittal:

- 24 (1) Name, office address, telephone number, and email address of applicant;

1 (2) Description, physical dimensions, and technical specifications of
2 Autonomous Delivery Device;

3 (3) Description and purpose of Testing;

4 (4) Dates and times of Testing;

5 (5) Description of and visual diagram depicting proposed path of travel of
6 Autonomous Delivery Device on or above sidewalks and public right-of-ways within the
7 jurisdiction of the Department of Public Works;

8 (6) Operations manuals and instructions for operation of Autonomous Delivery
9 Device, including manner of causing Autonomous Delivery Device to come to a full and
10 complete stop;

11 (7) Safety plan to ensure Autonomous Delivery Device remains within 15 feet of
12 human operator at all times;

13 (8) Privacy policy that addresses the manner in which applicant will use, store,
14 and safeguard photographic, video, and other data obtained through the Testing; and

15 (9) A description of the means by which the applicant has considered any
16 potential labor disputes involving the applicant's workforce.

17 (e) **Public Notice and Opportunity to Comment.** Upon submission of the
18 Autonomous Delivery Device permit application, the applicant shall post Notices of Application
19 provided by Public Works for a period of 20 calendar days at the Testing site(s), as prescribed
20 by the Director's Regulations. The Notice(s) shall be posted along the sidewalks and public
21 right-of-ways according to a public notice plan acceptable to Public Works. The applicant
22 shall submit to Public Works photographic evidence that the Notice(s) were posted
23 appropriately. The applicant shall remove the Notice of Application the day after expiration of
24 the 20-day notice period. Public Works shall accept public comments on the Notice of
25 Application for 20 calendar days from the first day the Notice was posted.

1 **(f) Public Hearings.**

2 **(1) Public Works Hearing.** The Public Works Director shall hold a public
3 hearing regarding the Autonomous Delivery Device permit application. The applicant shall
4 post at each Testing site, as directed by Public Works, a Notice of Public Hearing provided by
5 Public Works for a period of 10 calendar days prior to the date of the scheduled hearing. The
6 Notice of Public Hearing posting shall be removed by the applicant the day after the expiration
7 of the 10-day period. Unless otherwise outlined in this Section 794, the Notice of Public
8 Hearing posting shall comply with Article 5.6 of the Public Works Code. The Public Works
9 Director shall also notify the Board of Supervisors of any public hearing held under this
10 subsection (f)(1).

11 **(2) Appeal to Board of Supervisors.** The Public Works Director’s approval or
12 disapproval of an Autonomous Delivery Device permit application may be appealed to the
13 Board Supervisors. During the appeal, the permittee may not operate any Autonomous
14 Delivery Device. The Board of Supervisors shall hold a public hearing on an appeal of an
15 Autonomous Delivery Device permit application, and may approve, disapprove, or modify the
16 Director of Public Works’ decision. The Board of Supervisors’ decision on such an appeal is
17 final.

18 **(g) Conditions of Approval and Data Sharing.**

19 **(1) Conditions of Approval.** The Public Works Director, in consultation with
20 the SFMTA and any appropriate City Department, shall impose any conditions of approval
21 that the Director deems necessary to protect the public health, safety, and welfare of
22 pedestrians and other users of the sidewalks and public right-of-ways. The Public Works
23 Director shall have the authority to add conditions of approval to, modify, or withdraw the
24 Autonomous Delivery Device permit to address public health, safety, and welfare issues
25 arising from the Testing. Before the Public Works Director imposes its final conditions of

1 approval on a permit, the prospective permittee, if the permittee proposes to test an
2 Autonomous Delivery Device along or across a high injury corridor, the permittee shall make a
3 presentation to the Vision Zero committee of the San Francisco County Transportation
4 Authority. Failure to comply with the Director’s conditions of approval shall result in immediate
5 revocation of the permit, and permittee shall be ineligible for any future Autonomous Delivery
6 Device permits.

7 (2) **Data Sharing.** The Autonomous Delivery Device permittee shall disclose all
8 data collected during the Testing, including any Global Positioning System (“GPS”) or
9 photographic data, with relevant City agencies, upon request by Public Works. The permittee
10 shall also disclose the following information to the City upon request by Public Works:

11 (A) the San Francisco businesses that are incorporating the Testing of
12 Autonomous Delivery Devices into their operations; and

13 (B) information regarding the quality of City sidewalks and related
14 mapping data.

15 (g) **Operational Requirements.** The Testing of Autonomous Delivery Devices must
16 abide by the following requirements.

17 (1) **Speed limit.** Autonomous Delivery Devices shall not travel more than two
18 (2) miles per hour.

19 (2) **Human Operator.** A human operator shall remain within 15 feet of the
20 Autonomous Delivery Device for the entire duration of the Testing all times.

21 (3) **Rights of Way.** Autonomous Delivery Devices shall yield the right of way to
22 pedestrians and bicycles.

23 (4) **Permissible Testing Areas.** Permittees shall only Test Autonomous
24 Delivery Devices on sidewalks that (A) are located in zoning districts designated for
25 Production, Design, and Repair (“PDR”) uses, (B) comply with the sidewalk widths

1 recommended in the City's Better Streets Policy (Section 98.1 of the Administrative Code),
2 and (C) satisfy pedestrian Level of Service A for sidewalk congestion as determined by the
3 Planning Department, or can simultaneously accommodate the Testing of Autonomous
4 Delivery Devices and paths of travel for persons with disabilities.

5 (5) **Traffic Signals.** Autonomous Delivery Devices shall obey all signs and
6 signals governing traffic and pedestrians.

7 (6) **Hazardous Materials.** Autonomous Delivery Devices shall not transport
8 waste or hazardous materials (such as flammables or ammunition).

9 (7) **Headlights.** Autonomous Delivery Devices shall be equipped with
10 headlights that operate at night, sunrise, and sunset.

11 (8) **Warning Noise.** Autonomous Delivery Devices shall emit a warning noise
12 while in operation, at a volume sufficient to warn nearby pedestrians and bicyclists.

13 (9) **Unique Identifier.** Each permittee must place a unique identifier on each
14 Autonomous Delivery Device that also includes the permittee's contact information.

15 (10) **Insurance Requirements.** Each permittee must obtain and have readily
16 accessible proof of general liability, automotive liability, and workers' compensation insurance.

17 (11) **Indemnification of City.** Each permittee shall agree to indemnify, defend,
18 protect, and hold harmless the City from and against any and all claims of any kind allegedly
19 arising directly or indirectly out of permittee's Testing of Autonomous Delivery Devices on City
20 sidewalks.

21 (h) **Penalties.**

22 (1) **Criminal Penalty.** Any person who violates this Section 794 shall be guilty
23 of a misdemeanor for each trip during which such violation occurs. Any person convicted of a
24 misdemeanor hereunder shall be punishable by a fine of not more than \$1,000 or by
25 imprisonment in the County Jail for a period of not more than six months, or by both.

1 **(2) Civil Penalty.**

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

6 (B) Any person who violates subsection (b) may be liable for a civil
7 penalty, not to exceed \$500 for each day such violation is committed or permitted to continue,
8 which penalty shall be assessed and recovered in a civil action brought in the name of the
9 people of the City by the City Attorney in any court of competent jurisdiction. In assessing the
10 amount of the civil penalty, the court may consider any one or more of the relevant
11 circumstances presented by any of the parties to the case, including, but not limited to, the
12 following: the nature and seriousness of the misconduct, the number of violations, the
13 persistence of the misconduct, the length of time over which the misconduct occurred, the
14 willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net
15 worth. The City Attorney may seek recovery of attorney's fees and costs incurred in bringing
16 a civil action pursuant to this subsection (d).

17 **(3) Administrative Penalty.** In addition to the criminal or civil penalties
18 authorized by subsections (1) and (2), Public Works employees designated in Section 38 of
19 the Police Code may issue administrative citations for such violations. The administrative
20 penalty shall not exceed \$1,000 per day for each violation. Such penalty shall be assessed,
21 enforced, and collected in accordance with Section 39-1 of the Police Code.

22
23 Section 3. The Police Code is hereby amended by revising Section 39-1, to read as
24 follows:
25

1 **SEC. 39-1. PROCEDURE FOR ASSESSMENT AND COLLECTION OF**
2 **ADMINISTRATIVE PENALTIES FOR SPECIFIED LITTERING AND NUISANCE**
3 **VIOLATIONS.**

4 (a) This Section shall govern the imposition, assessment and collection of
5 administrative penalties imposed pursuant to Sections 37, 38 and 63 of the Police Code,
6 Sections 41.13, 283.1, 287, 288.1 and 600 of the Health Code, and Sections 170, 173, 174,
7 174.2, ~~723.4~~, and 724.5, and 794 of the Public Works Code.

8 * * * *

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10 Section 4. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor’s veto of the ordinance.

14
15 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the “Note” that appears under
20 the official title of the ordinance.

21
22 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word
23 of this ordinance, or any application thereof to any person or circumstance, is held to be
24 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
25 shall not affect the validity of the remaining portions or applications of the ordinance. The

1 Board of Supervisors hereby declares that it would have passed this ordinance and each and
2 every section, subsection, sentence, clause, phrase, and word not declared invalid or
3 unconstitutional without regard to whether any other portion of this ordinance or application
4 thereof would be subsequently declared invalid or unconstitutional.

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

8 By: _____
9 ANDREW SHEN
Deputy City Attorney

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