

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 and to set**
6 **rules governing the operation of such devices; amending the Public Works Code and**
7 **Police Code to provide for administrative, civil, ~~or~~ and criminal penalties for unlawful**
8 **operation of ~~autonomous delivery~~ such devices; and affirming the Planning**
9 **Department’s determination under the California Environmental Quality Act.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. The Planning Department has determined that the actions contemplated in
19 this ordinance comply with the California Environmental Quality Act (California Public
20 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
21 Board of Supervisors in File No. 170599 and is incorporated herein by reference. The Board
22 affirms this determination.

23 Section 2. The Public Works Code is hereby amended by adding Section ~~723.4~~ 794, to
24 read as follows:

25 **~~SEC. 723.4. AUTONOMOUS DELIVERY DEVICES PROHIBITED ON PUBLIC~~**
~~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 794 is to
14 establish a permit program to authorize and regulate the operation of Autonomous Delivery
15 Devices on City sidewalks for the limited purposes of testing for research and development
16 (“Testing”) for anticipated commercial uses. Under this Section, the operation of Autonomous
17 Delivery Devices for any other purpose is prohibited. This Section shall not govern the
18 operation of Autonomous Delivery Devices on City streets and highways subject to the
19 exclusive 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, the number of
8 Autonomous Delivery Devices that may simultaneously undergo Testing in the same area,
9 and the minimum distance between Autonomous Delivery Devices during Testing. When
10 such Regulations may affect the operations and enforcement of the SFMTA, the Public Works
11 Director shall consult with the General Manager of the SFMTA prior to adoption of such
12 Regulations.

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

16 (1) No permit issued under this Section 794 shall remain valid for longer than 60
17 180 days; provided that the Public Works Director may grant up to two 90-day extensions, if
18 the permittee requests such an extension prior the expiration of the initial 180-day period or
19 prior 90-day extension. When a permittee requests an extension, the permittee must provide
20 Public Works with a report that provides all data collected during prior Testing and describes
21 any public safety-related incidents that have occurred.

22 (2) No permit shall authorize the Testing of more than three ~~two~~ (2)
23 Autonomous Delivery Devices for each permittee.

24 (3) No more than a total of three ~~(3)~~ active permits nine Autonomous Delivery
25 Devices shall be permitted ~~are allowed~~ at any time.

1 (4) No permittee may hold more than one permit at any time.

2 (de) **Application Process.** The content of permit applications shall comply with the
3 Public Works Director’s Regulations. All applications shall be on forms prescribed therefor
4 and shall contain or be accompanied by all information required to assure the presentation of
5 pertinent facts for proper consideration of the application. The applicant shall provide the
6 following information as part of the application submittal:

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

8 (2) Description, physical dimensions, and technical specifications of the
9 Autonomous Delivery Device;

10 (3) Description and purpose of Testing;

11 (4) Dates and times of Testing;

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

15 (6) Operations manuals and instructions for operation of the Autonomous
16 Delivery Device, including manner of causing it Autonomous Delivery Device to come to a full
17 and complete stop;

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

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

22 (98) A description of the means by which the applicant has considered any
23 potential labor disputes involving the applicant’s workforce.

24 (ef) **Public Notice and Opportunity to Comment.** Upon submission of the
25 Autonomous Delivery Device permit application, the applicant shall post Notices of Application

1 provided by Public Works for a period of 20 calendar days at the Testing site(s), as prescribed
2 by the Director's Regulations. The Notice(s) shall be posted along the sidewalks and public
3 right-of-ways according to a public notice plan acceptable to Public Works. The applicant
4 shall submit to Public Works photographic evidence that the Notice(s) were posted
5 appropriately. The applicant shall remove the Notice of Application the day after expiration of
6 the 20-day notice period. Public Works shall accept public comments on the Notice of
7 Application for 20 calendar days from the first day the Notice was posted. Public Works shall
8 also list pending applications and all approved permits on their website.

9 **(fg) Public Hearings on Permit Applications.**

10 **(1) Public Works Hearing.** The Public Works Director shall hold a public
11 hearing regarding the Autonomous Delivery Device permit application. The applicant shall
12 post at each Testing site, as directed by Public Works, a Notice of Public Hearing provided by
13 Public Works for a period of 10 calendar days prior to the date of the scheduled hearing. The
14 Notice of Public Hearing posting shall be removed by the applicant the day after the expiration
15 of the 10-day period. Unless otherwise outlined in this Section 794, the Notice of Public
16 Hearing posting shall comply with Article 5.6 of the Public Works Code. The Public Works
17 Director shall also notify the Board of Supervisors of any public hearing held under this
18 subsection (fg)(1).

19 **(2) Appeal to Board of Supervisors.** The Public Works Director's approval or
20 disapproval of an Autonomous Delivery Device permit application, or the Public Works
21 Director's withdrawal or revocation of an Autonomous Delivery Device permit application, may
22 be appealed to the Board of Supervisors. During the appeal, the permittee may not operate
23 any Autonomous Delivery Device. The Board of Supervisors shall hold a public hearing on an
24 appeal of an Autonomous Delivery Device permit application the Public Works Director's
25

1 decision, and may approve, disapprove, or modify the Director of Public Works' decision prior
2 determination. The Board of Supervisors' decision on such an appeal is final.

3 (A) Any such appeal must be filed in writing with the Clerk of the Board of
4 Supervisors within 10 days of the Public Works Director's decision, and must be accompanied
5 by payment of a fee of \$300, payable to the Office of the Clerk of the Board. The Clerk of the
6 Board may establish a policy to waive the appeal fee for neighborhood organizations or those
7 whose income is not enough to pay for the fee without affecting his or her abilities to pay for
8 the necessities of life.

9 (B) With respect to appeals under this subsection (g)(2), the Board shall
10 schedule a hearing on the appeal to be held no less than 14 days and no more than 30 days
11 after the last available filing date of the appeal; provided that if the Board of Supervisors does
12 not conduct at least three regular Board meetings during such 30 day period, the Board of
13 Supervisors shall hold its hearing within 45 days of the last available filing date of the appeal
14 or at the next regularly scheduled Board meeting should such deadline fall within a Board of
15 Supervisors recess; and provided further that the latest date to which said decision may be so
16 postponed under this subsection shall be not more than 90 days from the last available filing
17 date of the appeal.

18 (C) The Clerk of the Board of Supervisors shall publish a Notice of Public
19 Hearing at least 10 days in advance of the appeal hearing in at least one newspaper of
20 general circulation within the City and County of San Francisco; and provide mailed notice to
21 (i) anyone requesting notification in writing to the Office of the Clerk of the Board of
22 Supervisors, and (ii) the neighborhood organization(s) on the list maintained by the Planning
23 Department located within the Testing area, at least ten days in advance of the appeal
24 hearing.

1 (D) The appellant or its representative and other interested members of
2 the public including the permittee shall submit any written briefs and documentation they want
3 available to the members of the Board of Supervisors and included in the packet materials
4 prior to the hearing to the Clerk of the Board of Supervisors no later than 12:00 pm, at least 11
5 days prior to the hearing date for the appeal, and City departments shall submit their
6 responses to any written briefs and documentation from the appellant no later than 12:00 pm,
7 at least eight days prior to the hearing date for the appeal; any written briefs and
8 documentation received after these deadlines may not be a part of the hearing packet
9 materials and the submitting party shall be responsible for distribution.

10 (E) If the Office of the Clerk of the Board of Supervisors receives multiple
11 timely appeals of Public Work’s Director’s decision, the Clerk of the Board of Supervisors may
12 consolidate such appeals so that they are heard simultaneously.

13 (gh) **Conditions of Approval and Data Sharing.**

14 (1) **Conditions of Approval.** The Public Works Director, in consultation with
15 the SFMTA and any appropriate City Department, shall impose any conditions of approval
16 that the Director deems necessary to protect the public health, safety, and welfare of
17 pedestrians and other users of the sidewalks and public right-of-ways. The Public Works
18 Director shall have the authority to add conditions of approval to, modify, or withdraw the
19 Autonomous Delivery Device permit to address public health, safety, and welfare issues
20 arising from the Testing. Before the Public Works Director imposes its final conditions of
21 approval on a permit, the prospective permittee, if the permittee proposes to test an
22 Autonomous Delivery Device along or across a high injury corridor, the permittee shall make a
23 presentation to the Vision Zero committee of the San Francisco County Transportation
24 Authority. Failure to comply with the Director’s conditions of approval shall ~~may~~ result in
25 immediate revocation of the permit., and If the failure to comply with the Director’s conditions

1 of approval also creates a significant risk to public safety, the Director shall immediately
2 revoke the permit. If the Director revokes a permit under this subsection (h)(1), the permittee
3 shall be ineligible for any future Autonomous Delivery Device permits.

4 (2) **Data Sharing.** The Autonomous Delivery Device permittee shall disclose all
5 data collected during the Testing, including any Global Positioning System (“GPS”) or
6 photographic data, with relevant City agencies, upon request by either the City Administrator’s
7 Office or Public Works. Upon request by either the City Administrator’s Office or Public
8 Works, the The permittee shall also disclose the following information regarding the San
9 Francisco businesses that are incorporating the Testing of Autonomous Delivery Devices into
10 their operations. 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 (gj) **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 three
18 two (2) miles per hour.

19 (2) **Human Operator.** A human operator shall remain within 15 30 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) are
2 not identified as a high-injury corridor by the City's Walk First initiative, and (C) satisfy
3 pedestrian Level of Service A for sidewalk congestion as determined by the Planning
4 Department, or can simultaneously accommodate the Testing of Autonomous Delivery
5 Devices and paths of travel for persons with disabilities or have an effective sidewalk width of
6 six feet.

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

9 (6) **Hazardous Materials.** Autonomous Delivery Devices shall ~~may not~~
10 transport waste or hazardous materials ~~(such as including flammables or ammunition).~~

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

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

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

17 (10) **Insurance Requirements.** Each permittee ~~must~~ shall obtain and have
18 readily accessible proof of general liability, automotive liability, and workers' compensation
19 insurance.

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

24 (j) **Public Hearing Regarding Permitting Program.** The Board of Supervisors shall
25 hold a hearing regarding the operation of this Section 794 within one year of the issuance of

1 the first Autonomous Delivery Device Testing permit, and at this hearing, Public Works shall
2 provide a report summarizing the data it has collected from permittees and offer findings and
3 recommendations regarding its administration of this program.

4 (hk) Penalties.

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

9 Any permittee who shall violate any of the provisions of this Section 794 shall be
10 guilty of an infraction. Every violation determined to be an infraction is punishable by (1) a
11 fine not exceeding \$100 for the first violation within one year; (2) a fine not exceeding \$200 for
12 a second violation within one year from the date of the first violation; (3) a fine not exceeding
13 \$500 for the third and each additional violation within one year from the date of the first
14 violation.

15 No criminal penalty may be imposed on the employee or staff of any company,
16 corporation or other business entity that is operating an Autonomous Delivery Device in
17 violation of this Section 794.

18 (2) Civil Penalty.

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

23 (B) Any person who violates subsections (b) or (i) may be liable for a civil
24 penalty, not to exceed \$500 for each day such violation is committed or permitted to continue,
25 which penalty shall be assessed and recovered in a civil action brought in the name of the

1 people of the City by the City Attorney in any court of competent jurisdiction. In assessing the
2 amount of the civil penalty, the court may consider any one or more of the relevant
3 circumstances presented by any of the parties to the case, including, but not limited to, the
4 following: the nature and seriousness of the misconduct, the number of violations, the
5 persistence of the misconduct, the length of time over which the misconduct occurred, the
6 willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net
7 worth. The City Attorney may seek recovery of attorney's fees and costs incurred in bringing
8 a civil action pursuant to this subsection (ek).

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

14
15 Section 3. The Police Code is hereby amended by revising Section 39-1, to read as
16 follows:

17 **SEC. 39-1. PROCEDURE FOR ASSESSMENT AND COLLECTION OF**
18 **ADMINISTRATIVE PENALTIES FOR SPECIFIED LITTERING AND NUISANCE**
19 **VIOLATIONS.**

20 (a) This Section 39-1 shall govern the imposition, assessment and collection of
21 administrative penalties imposed pursuant to Sections 37, 38 and 63 of the Police Code,
22 Sections 41.13, 283.1, 287, 288.1 and 600 of the Health Code, and Sections 170, 173, 174,
23 174.2, ~~723.4~~, and 724.5, and 794 of the Public Works Code.

24 * * * *

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

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

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

21
22 Section 7. Undertaking for the General Welfare. In enacting and implementing this
23 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
24 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
25

1 is liable in money damages to any person who claims that such breach proximately caused
2 injury.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 ANDREW SHEN
8 Deputy City Attorney

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