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San Francisco Public Works Code

SEC. 794. AUTONOMOUS DELIVERY DEVICES ON SIDEWALKS - PERMIT REQUIRED.

(a) **Purpose.** “Autonomous Delivery Device” means a motorized device used to transport items, products, or any other materials on City sidewalks for commercial purposes, and guided or controlled without a human operator sitting or standing upon and actively and physically controlling the movements of the device. The purpose of this Section 794 is to establish a permit program to authorize and regulate the operation of Autonomous Delivery Devices on City sidewalks for the limited purposes of testing for research and development (“Testing”) for anticipated commercial uses. Under this Section, the operation of Autonomous Delivery Devices for any other purpose is prohibited. This Section shall not govern the operation of Autonomous Delivery Devices on City streets and highways subject to the exclusive jurisdiction of the San Francisco Municipal Transportation Agency (“SFMTA”).

(b) **Permit Required.** It shall be unlawful for any person, including but not limited to natural persons and businesses, to operate an Autonomous Delivery Device in, on, or above any public sidewalk (as defined in Article 2.4 of the Public Works Code) without a permit.

(c) **Public Works Director’s Administration of Permit.** The Public Works Director shall administer all Autonomous Delivery Device permits pursuant to the requirements, rules, and regulations set forth in this Section 794 or in orders, regulations, or procedures that the Public Works Director shall adopt as he or she deems necessary to preserve and maintain the public health, safety, welfare, and convenience (“Regulations”). Such Regulations may include, but are not limited to, permit application materials, placement of and information contained on signs, site conditions, accessibility of sidewalks and streets, the number of Autonomous Delivery Devices that may simultaneously undergo Testing in the same area, and the minimum distance between Autonomous Delivery Devices during Testing.

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

(1) No permit issued under this Section 794 shall remain valid for longer than 180 days; provided that the Public Works Director may grant up to two 90-day extensions, if the permittee requests such an extension prior¹ the expiration of the initial 180-day period or prior 90-day extension. When a permittee requests an extension, the permittee shall provide Public Works with a report that provides all data collected during prior Testing and describes any public safety-related incidents that have occurred.

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

(3) No more than a total of nine Autonomous Delivery Devices shall be permitted at any time.

(4) No permittee may hold more than one permit at any time; provided that a permittee may apply for a second permit, if after six months have elapsed from the effective date of this Section 794, no more than two prospective permittees have applied for an Autonomous Delivery Device Testing permit. In the event a permittee applies for and is issued a second permit under this subsection (d)(4), that second permit shall not be eligible for an extension under subsection (d)(1).

(e) **Application Process.** Public Works shall receive and process each permit application, and the content of permit applications shall comply with the Public Works Director’s Regulations. All applications shall be on forms prescribed therefor and shall contain or be accompanied by all information required to assure the presentation of pertinent facts for proper consideration of the application. Public Works may

refer a permit application to any other appropriate City department for its review and consultation. The applicant shall provide the following information as part of the application submittal:

- (1) Name, office address, telephone number, and email address of applicant;
- (2) Description, physical dimensions, and technical specifications of the Autonomous Delivery Device;
- (3) Description and purpose of Testing;
- (4) Dates and times of Testing;
- (5) Description of and visual diagram depicting proposed path of travel of the Autonomous Delivery Device on City sidewalks or above sidewalks and public right-of-ways within the jurisdiction of the Department of Public Works (“Public Works”);
- (6) Operations manuals and instructions for operation of the Autonomous Delivery Device, including manner of causing it to come to a full and complete stop;
- (7) Privacy policy that addresses the manner in which applicant will use, store, and safeguard photographic, video, and other data obtained through the Testing; and
- (8) A description of the means by which the applicant has considered any potential labor disputes involving the applicant’s workforce.

(f) **Public Notice and Opportunity to Comment.** Upon submission of the Autonomous Delivery Device permit application, the applicant shall post Notices of Application provided by Public Works for a period of 20 days at the Testing site(s), as prescribed by the Director’s Regulations. The Notice(s) shall be posted along the sidewalks according to a public notice plan acceptable to Public Works. The applicant shall submit to Public Works photographic evidence that the Notice(s) were posted appropriately. The applicant shall remove the Notice of Application the day after expiration of the 20-day notice period. Public Works shall accept public comments on the Notice of Application for 20 days from the first day the Notice was posted. Public Works shall also list pending applications and all approved permits on their website.

(g) **Public Hearings.**

(1) **Public Works Hearing.** The Public Works Director shall hold a public hearing regarding each Autonomous Delivery Device permit application. Unless otherwise outlined in this Section 794 , the Notice of Public Hearing posting shall comply with Article 5.6 of the Public Works Code. The Public Works Director shall also notify the Board of Supervisors of any public hearing held under this subsection (g)(1), and the Director’s written determination after such hearing.

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

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

(B) With respect to appeals under this subsection (g)(2), the Board of Supervisors shall schedule a hearing on the appeal to be held no less than 14 days and no more than 30 days after the last available filing date of the appeal; provided that if the Board of Supervisors does not conduct at least three regular Board of

Supervisors meetings during such 30 day period, the Board of Supervisors shall hold its hearing within 45 days of the last available filing date of the appeal or at the next regularly scheduled Board of Supervisors meeting should such deadline fall within a Board of Supervisors recess. The Board of Supervisors shall make a final decision no later than 90 days from the last available filing date of the appeal.

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

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

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

(h) Conditions of Approval and Data Sharing.

(1) **Conditions of Approval.** The Public Works Director, in consultation with the SFMTA and any appropriate City Department, shall impose any conditions of approval that the Director deems necessary to protect the public health, safety, and welfare of pedestrians and other users of the sidewalks and public right-of-ways. The Public Works Director shall have the authority to add conditions of approval to, modify, or suspend the Autonomous Delivery Device permit to address public health, safety, and welfare issues arising from the Testing. Failure to comply with the Director's conditions of approval may result in immediate revocation of the permit. If the failure to comply with the Director's conditions of approval also creates a significant risk to public safety, the Director shall immediately revoke the permit. If the Director revokes a permit under this subsection (h)(1), the permittee shall be ineligible for any future Autonomous Delivery Device permits. Any such revocation may be appealed to the Board of Supervisors under subsection (g)(2).

(2) **Data Sharing.** Each Autonomous Delivery Device permittee shall disclose the following information to the City Administrator's Office and Public Works on a monthly basis:

(A) data collected during the Testing of an Autonomous Delivery Device, including any Global Positioning System ("GPS") or photographic data;

(B) information regarding the San Francisco businesses that are incorporating the Testing of Autonomous Delivery Devices into their operations; and

(C) incidents arising from the Testing of the each¹ Autonomous Delivery Device, including but not limited to, violations of the operational requirements set forth in subsection (i), incidents impacting public safety, public complaints regarding such Testing, any malfunctions or public tampering with a permitted device, or any collisions with street furniture, vehicles or persons in the public right of way.

(i) **Operational Requirements.** The Testing of Autonomous Delivery Devices shall abide by the following requirements. To evaluate whether a permittee has complied with these requirements, Public Works may seek the review and consultation of any other appropriate City department.

(1) **Speed limit.** Autonomous Delivery Devices shall not travel more than three miles per hour.

(2) **Human Operator.** A human operator shall remain within 30 feet of the Autonomous Delivery Device for the entire duration of the Testing.

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

(4) **Permissible Testing Areas.** Permittees shall only Test Autonomous Delivery Devices on sidewalks that (A) are located in zoning districts designated for Production, Design, and Repair (“PDR”) uses, (B) are not identified as a high-injury corridor by the City’s Vision Zero SF road safety initiative, and (C) can simultaneously accommodate the Testing of Autonomous Delivery Devices and paths of travel for persons with disabilities or have an effective sidewalk width of six feet.

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

(6) **Hazardous Materials.** Autonomous Delivery Devices may not transport waste or hazardous materials (including flammables or ammunition).

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

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

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

(10) **Insurance Requirements.** Each permittee shall obtain and have readily accessible proof of general liability, automotive liability, and workers’ compensation insurance.

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

(12) **Docking.** When not in use for Testing, each permittee shall dock Autonomous Delivery Devices on private property and not on a City sidewalk or in the public right of way.

(13) **Site Visits.** Each permittee shall allow Public Works to attend and observe at least one Testing session during the term of each Autonomous Delivery Device Testing permit.

(j) **Public Works’ Report Regarding Permitting Program.** Within one year of the issuance of the first Autonomous Delivery Device testing permit under this Section 794, Public Works shall provide a report to the Board of Supervisors regarding the operation of the permitting program, summarizing the data it has collected from permittees, and offering findings and recommendations regarding its administration of this program.

(k) **Penalties.**

(1) **Criminal Penalty.**

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

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

(2) **Civil Penalty.**

(A) The Public Works Director may request the City Attorney to maintain an action for injunction to restrain or summary abatement to cause the correction or abatement of a violation of this Section 794 and for assessment and recovery of a civil penalty and reasonable attorney's fees for such violation.

(B) Any person who violates this Section 794 may be liable for a civil penalty, not to exceed \$500 for each day such violation is committed or permitted to continue, which penalty shall be assessed and recovered in a civil action brought in the name of the people of the City by the City Attorney in any court of competent jurisdiction. In assessing the amount of the civil penalty, the court may consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth. The City Attorney may seek recovery of attorney's fees and costs incurred in bringing a civil action pursuant to this subsection (k).

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

(Added by Ord. [244-17](#), File No. 170599, App. 12/22/2017, Eff. 1/21/2018)

CODIFICATION NOTE

1. So in Ord. [244-17](#).