Resolution extending interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor agriculture uses in Production, Distribution and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department’s determination under the California Environmental Quality Act.

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

WHEREAS, Policy 2 of the eight priority policies of the General Plan and of Planning Code, Section 101.1 establishes a policy “That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods”; and

WHEREAS, Indoor Agriculture uses, as defined in Planning Code Section 102, and other indoor agriculture uses frequently involve cultivation of medical cannabis; and

WHEREAS, California’s Proposition 64, the Adult Use of Marijuana Act (AUMA), was passed by the voters on November 8, 2016, permitting commercial cultivation of cannabis for nonmedical purposes, subject to a state licensing requirement; and
WHEREAS, Production, Distribution and Repair (PDR) zoning districts are areas in which commercial cannabis cultivation businesses may wish to locate; and

WHEREAS, The office of Mayor Edwin M. Lee, the Planning Department, the Office of Economic and Workforce Development and industry stakeholders are considering the recommendations of the San Francisco Cannabis State Legalization Task Force and engaging in broader discussions about amending and updating the existing Planning Code land use controls to allow for cultivation, manufacturing and distribution while ensuring San Francisco’s policy goals for PDR-zoned areas are maintained; and

WHEREAS, An over-concentration of commercial cannabis cultivation businesses may have a negative impact on the character of neighborhoods within PDR zoning districts, and on the commerce and industry of the City, including within PDR zoning districts; and

WHEREAS, It is important that commercial cannabis cultivation operations adequately address public health, safety and general welfare concerns, for example, by having adequate security measures; and

WHEREAS, On January 24, 2017, the Board adopted Resolution No. 15-17, which imposed interim zoning controls requiring that any proposed indoor Agriculture use, as defined in Planning Code Section 102, as well as any other proposed indoor agriculture use, that is located in a PDR zoning district must obtain conditional use authorization from the Planning Commission, pursuant to Planning Code Section 303; and

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

WHEREAS, The extension of the interim zoning controls adopted by the Board in Resolution No. 15-17 advances and is consistent with Policy 2 of the priority policies set forth in Planning Code Section 101.1, in it addresses the impacts of proposed cannabis cultivation businesses on neighborhood character in PDR zoning districts; and
WHEREAS, With respect to priority policies 1, 3, 4, 5, 6, 7 and 8, the Board finds that extending these interim zoning controls does not, at this time, have an effect upon these policies, and thus, will not conflict with said policies; and

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

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

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

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

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

FURTHER RESOLVED, That the extension of these interim zoning controls advances and is consistent with Policy 2 of the priority policies set forth in Planning Code, Section
1. in that it requires consideration of a proposed cannabis cultivation business’s impacts on neighborhood character in PDR zoning districts, by requiring conditional use authorization for this new use; and be it

   FURTHER RESOLVED, That this extension of interim zoning controls shall remain in effect until December 31, 2017, or until the adoption of permanent legislation regulating commercial cannabis cultivation in PDR zoning districts, whichever first occurs; and be it

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

   FURTHER RESOLVED, That any expansion of an existing indoor Agriculture use, as defined in Planning Code Section 102, or of any other indoor agriculture use, shall not be subject to these controls so long as the space in which the expansion would occur is on the same parcel as, contiguous with, and accessed directly from, the existing establishment.

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

By: VICTORIA WONG
Deputy City Attorney
Resolution extending interim zoning controls to require conditional use authorization for indoor agriculture uses, as defined in Planning Code, Section 102, and other indoor agriculture uses in Production, Distribution and Repair zoning districts; making findings of consistency with the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department's determination under the California Environmental Quality Act.

July 17, 2017 Land Use and Transportation Committee - AMENDED

July 17, 2017 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

July 18, 2017 Board of Supervisors - ADOPTED
Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

File No. 170783

I hereby certify that the foregoing Resolution was ADOPTED on 7/18/2017 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved