

File No. 141156

Committee Item No. \_\_\_\_\_

Board Item No. 46

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date November 18, 2014

#### Cmte Board

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

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|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Copy of BOS File No. 140954 Ordinance</u> |
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Completed by: John Carroll Date November 13, 2014

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Approval of a 60-Day Extension for Planning Commission Review of an Ordinance Amending  
2 the Planning Code to Permit Exceptions from Dwelling Unit Density Limits and from Other  
3 Specified Code Requirements (File No. 140954)]

4 **Resolution extending by 60 days the prescribed time within which the Planning**  
5 **Commission may render its decision on an Ordinance (File No. 140954) amending the**  
6 **Planning Code to permit exceptions from dwelling unit density limits and other**  
7 **requirements of the Code when adding Dwelling Units to existing buildings undergoing**  
8 **seismic retrofitting; deleting the requirement that a new In-Law Unit constructed in and**  
9 **near the Castro Street Neighborhood Commercial District be limited to 750 square feet;**  
10 **correcting outdated cross-references and Code language; affirming the Planning**  
11 **Department's California Environmental Quality Act determination; and making findings**  
12 **of consistency with the General Plan, and the eight priority policies of Planning Code,**  
13 **Section 101.1.**

14  
15 WHEREAS, On September 9, 2014, Supervisor Wiener introduced legislation  
16 amending the San Francisco Planning Code to permit exceptions from dwelling unit density  
17 limits and other requirements of the Code when adding Dwelling Units to existing buildings  
18 undergoing seismic retrofitting; deleting the requirement that a new In-Law Unit constructed in  
19 and near the Castro Street Neighborhood Commercial District be limited to 750 square feet;  
20 correcting outdated cross-references and Code language; affirming the Planning  
21 Department's California Environmental Quality Act determination; and making findings of  
22 consistency with the General Plan, and the eight priority policies of Planning Code, Section  
23 101.1; a copy of said legislation is on file with the Clerk of the Board of Supervisors in File No.  
24 140954 and is incorporated herein by reference; and  
25

1           WHEREAS, On or about September 19, 2014, the Clerk of the Board of Supervisors  
2 referred the proposed ordinance to the Planning Commission, which currently is reviewing the  
3 proposed ordinance; and

4           WHEREAS, The Board, in accordance with Planning Code Section 306.4(d) may, by  
5 Resolution, extend the prescribed time within which the Planning Commission is to render its  
6 decision on proposed amendments to the Planning Code that the Board of Supervisors  
7 initiates; and

8           WHEREAS, Supervisor Wiener has requested additional time for the Planning  
9 Commission to review the proposed Ordinance; and

10          WHEREAS, The Board deems it appropriate in this instance to grant to the Planning  
11 Commission additional time to review the proposed Ordinance and render its decision; now,  
12 therefore, be it

13          RESOLVED, That by this Resolution, the Board hereby extends the prescribed time  
14 within which the Planning Commission may render its decision on the proposed Ordinance for  
15 approximately 60 additional days, until February 19, 2014.

1 [Planning Code - Exceptions from Dwelling Unit Density Limits and from Other Specified Code Requirements]

2

3 **Ordinance amending the Planning Code to permit exceptions from dwelling unit**  
4 **density limits and other requirements of the Code when adding Dwelling Units to**  
5 **existing buildings undergoing seismic retrofitting; deleting the requirement that a new**  
6 **In-Law Unit constructed in and near the Castro Street Neighborhood Commercial**  
7 **District be limited to 750 square feet; correcting outdated cross-references and Code**  
8 **language; affirming the Planning Department’s California Environmental Quality Act**  
9 **determination; and making findings of consistency with the General Plan, and the eight**  
10 **priority policies of Planning Code, Section 101.1.**

11

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

16

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

18 Section 1. Findings.

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

24 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
3 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.  
4

5 Section 2. The Planning Code is hereby amended by revising Sections 207, 207.1,  
6 208 and 307, and deleting Section 207.4, to read as follows:

7 **~~SEC. 207. DENSITY OF DWELLING UNITS DENSITY LIMITS IN R-DISTRICTS.~~**

8 (a) Applicability. The density of ~~a~~Dwelling #Units permitted in the various ~~R~~ Districts  
9 shall be as set forth in the Zoning Control Table for the district in which the lot is located Sections  
10 207.1, 207.2, 207.5 and 209.1 of this Code. The term "~~a~~Dwelling #Unit" is defined in Section 102-7  
11 of this Code. In districts where no density limit is specified, density shall not be limited by lot area but  
12 rather by the applicable requirements and limitations set forth elsewhere in this Code. Such  
13 requirements and limitations include, but are not limited to, height, bulk, setbacks, open space,  
14 exposure and unit mix as well as applicable design guidelines, elements and area plans of the General  
15 Plan and design review by the Planning Department.

16 **~~SEC. 207.1. RULES FOR CALCULATION OF DWELLING UNIT DENSITIES.~~**

17 (b) Rules for Calculating Dwelling Unit Density. In districts that establish a maximum  
18 dwelling unit density, the following rules shall apply in the calculation of dwelling unit densities  
19 under this Code:

20 (a) (1) The entire amount of lot area per ~~a~~Dwelling #Unit specified by the Code shall  
21 be required for each ~~a~~Dwelling #Unit on the lot. A remaining fraction of one-half or more of the  
22 minimum of lot area per ~~a~~Dwelling #Unit shall be adjusted upward to the next higher whole  
23 number of ~~a~~Dwelling #Units.

24 (b) (2) Where permitted by this Code, two or more of the dwelling and other housing  
25 uses specified in the Code may be located on a single lot, either in one structure or in

1 separate structures, provided that the specified density limits are not exceeded by the total of  
2 such combined uses. Where *dDwelling #Units* and *gGroup hHousing* are combined, the  
3 maximum permitted density for *dDwelling #Units* and for *gGroup hHousing* shall be prorated to  
4 the total lot area according to the quantities of these two uses that are combined on the lot.

5 (e) (3) Where any portion of a lot is narrower than five feet, such a portion shall not  
6 be counted as part of the lot area for purposes of calculating the permitted dwelling density.

7 (d) (4) No private right-of-way used as the principal vehicular access to two or more  
8 lots shall be counted as part of the lot area of any such lot for purposes of calculating the  
9 permitted dwelling unit density.

10 (e) (5) Where a lot is divided by a use district boundary line, the dwelling unit  
11 density limit for each district shall be applied to the portion of the lot in that district, and none  
12 of the *dDwelling #Units* attributable to the district permitting the greater density shall be  
13 located in the district permitting the lesser density.

14 (6) In Neighborhood Commercial Districts, the dwelling unit density shall be at a  
15 density ratio not exceeding the number of Dwelling Units permitted in the nearest Residential District,  
16 provided that the maximum density ratio shall in no case be less than the amount set forth in the Zoning  
17 Control Table for the district in which the lot is located. The distance to each Residential District shall  
18 be measured either from the midpoint of the front lot line or from a point directly across the street  
19 therefrom, whichever permits the greater density.

20 (c) Exceptions to Dwelling Unit Density Limits.

21 (f) (1) Affordable Units in Projects with 20 percent or more Affordable Units. For  
22 projects that are not located in any RH-1 or RH-2 zoning district, or are not seeking and  
23 receiving a density bonus under the provisions of California Government Code Section 65915,  
24 where 20 percent or more of the *dDwelling #Units* on-site are "Affordable Units," the on-site  
25 Affordable Units shall not count towards the calculation of dwelling unit density. This Planning

1 Code Section does not provide exceptions to any other Planning Code requirements such as  
2 height or bulk. For purposes of this Section 207.1, "Affordable Units" shall be defined as  
3 meeting (1) the criteria of Section 406(b); (2) the requirements of Section 415 et seq. for on-  
4 site units; or (3) restricted units in a project using California Debt Limit Allocation Committee  
5 (CDLAC) tax-exempt bond financing and 4 percent tax credits under the Tax Credit Allocation  
6 Committee (TCAC). If a project sponsor proposes to provide "Affordable Units" that are not  
7 restricted by any other program, in order to receive the benefit of the additional density  
8 permitted under this Subsection ~~(c)(1)~~ or Subsection ~~(c)(2)~~, the project sponsor shall  
9 elect and the Planning Department and MOHCD shall be authorized to enforce, restricting the  
10 units as affordable under Planning Code Section 415.6 up to a maximum of 20 percent of the  
11 units in the principal project. The project sponsor shall make such election through the  
12 procedures described in Section 415.5(g) including submitting an Affidavit of Compliance  
13 indicating the project sponsor's election to pursue the benefits of Subsection ~~(c)(1)~~ or ~~(c)(2)~~  
14 ~~(g)~~ and committing to 20% on-site units restricted under Section 415.6 prior to approval by the  
15 Planning Commission or Planning Department staff. If a project sponsor obtains the  
16 exemption from the density calculation for Affordable Units provided in this subsection, the  
17 exemption shall be recorded against the property. Any later request to decrease the number  
18 of Affordable Units shall require the project to go back to the Planning Commission or  
19 Planning Department, whichever entity approved the project as a whole.

20 ~~(g)~~ **(2) Affordable Units in RTO Districts.** In the RTO District, on site ~~d~~Dwelling ~~#~~Units  
21 that are "Affordable Units," as defined in Subsection ~~(a)~~, shall not count toward density  
22 calculations or be limited by lot area.

23 **(3) Double Density for Senior Housing in RH, RM, RC, and NC Districts. Senior**  
24 **Housing, as defined in and meeting all the criteria and conditions defined in Section 102 of this Code.**  
25 **is permitted up to twice the dwelling unit density otherwise permitted for the District.**

1 (A) Projects in RC Districts or within one-quarter of a mile from an RC or NC-2  
2 (Small-Scale Neighborhood Commercial District) zoned area or higher, including Named Commercial  
3 Districts, and located in an area with adequate access to services including but not limited to transit,  
4 shopping and medical facilities, shall be principally permitted. Projects in RH and RM Districts  
5 located more than one-quarter of a mile from an RC or NC-2 zoned area or higher, including Named  
6 Neighborhood Commercial Districts shall require Conditional Use authorization.

7 (B) Projects in RH and RM Districts located more than one-quarter of a mile  
8 from an RC or NCD-2 District or higher, including Named Commercial Districts, shall require  
9 Conditional Use authorization.

10 (4) In-Law Units Within and Adjacent to the Castro Neighborhood Commercial  
11 District.

12 (A) Definition. An "In-Law Unit," also known as a Secondary Unit or Accessory  
13 Dwelling Unit, is defined for purposes of this Subsection 207(c)(4) as an additional Dwelling Unit that:

14 (i) is permitted to be constructed entirely within the existing built  
15 envelope, as it existed three (3) years prior to the time of the application, of an existing building zoned  
16 for residential use or within the envelope of an existing auxiliary structure on the same lot; and

17 (ii) will be constructed with a complete or partial waiver from the Zoning  
18 Administrator of the density limits and/or the parking, rear yard, exposure, or open space standards of  
19 this Code pursuant to the provisions of this Section 207(c)(4) and Section 307(l) of this Code.

20 (B) Applicability. The exceptions permitted by this Subsection 207(c)(4) shall  
21 apply only to lots:

22 (i) within the Castro Street Neighborhood Commercial District (NCD);

23 or

24 (ii) on a lot within 1,750 feet of the Castro Street NCD boundaries,  
25 excluding any lot within 500 feet of Block 2623 Lots 116 through 154.

1                                    (C) Controls. An "In-Law Unit," as defined above is permitted to be constructed  
2 within an existing building zoned for Residential use or within an existing and authorized auxiliary  
3 structure on the same lot under the following conditions:

4                                    (i) An In-Law Unit shall not be permitted in any RH-1(D) zoning district.

5                                    (ii) An In-Law Unit shall be constructed entirely within the existing  
6 building envelope.

7                                    (iii) For buildings that have no more than 10 existing dwelling units,  
8 one In-Law Unit is permitted; for buildings that have more than 10 existing dwelling units, two In-Law  
9 Units are permitted.

10                                   (iv) An In-Law Unit shall not be constructed using space from an  
11 existing Dwelling Unit.

12                                   (v) Pursuant to the provisions of Section 307(l) of this Code, an In-Law  
13 Unit may receive a waiver of the density limits and parking, rear yard, exposure, or open space  
14 standards of this Code from the Zoning Administrator; provided, however, that if the existing building  
15 or any existing dwelling unit within the building is subject to the provisions of the San Francisco  
16 Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code), the  
17 property owner shall submit to the Department (AA) a proposed agreement demonstrating that the In-  
18 Law Unit(s) are not subject to the Costa Hawkins Rental Housing Act (California Civil Code Section  
19 1954.50) because, under Section 1954.52(b), the owner has entered into this agreement with the City in  
20 consideration for a direct financial contribution or any other form of assistance specified in California  
21 Government Code Sections 65915 et seq. ("Agreement") and (BB) if the Planning Director determines  
22 necessary, an Affidavit containing information about the direct financial contribution or other form of  
23 assistance provided to the property owner. The property owner and the Planning Director (or his  
24 designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by  
25

1 the City Attorney's Office. The Agreement shall be approved prior to the City's issuance of the First  
2 Construction Document, as defined in Section 107A.13.1 of the San Francisco Building Code.

3 **(D) Monitoring Program.**

4 **(i) Monitoring of Affordability.** The Department shall establish a system  
5 to monitor the affordability of the In-Law Units authorized to be constructed by this Subsection  
6 207(c)(4). Property owners shall provide the Department with rent information as requested by the  
7 Department. The Board of Supervisors recognizes that property owners and tenants generally consider  
8 rental information sensitive and do not want it publicly disclosed. The intent of the Board is for the  
9 Department to obtain the information so that it can be used by the Department in aggregate form, not  
10 in a manner that would be linked to specific individuals or units. The Department shall only request  
11 rental information from property owners if the notice includes the statement that the Department is  
12 acquiring it in confidence and will publicly disclose it only in aggregate form. The Department shall  
13 not ask property owners to provide rental information if it determines, after consulting with the City  
14 Attorney's Office, that the information would be publicly disclosable under federal, state, or local law  
15 in nonaggregated form.

16 **(ii) Department Report.** The Department shall publish a report one year  
17 after the effective date of this Subsection 207(c)(4) that describes and evaluates the types of units being  
18 developed and their affordability rates. The report shall contain such additional information as the  
19 Director determines would inform decisionmakers and the public on the effectiveness and  
20 implementation of the Subsection and make recommendations for any amendments or expansion of  
21 areas where In-Law Units should be constructed. In subsequent years, information on In-Law Units  
22 shall be included in the Housing Inventory.

23 **(5) Additional Dwelling Units in Buildings Undergoing Seismic Retrofitting.**

24 **(A) Purpose.** San Francisco requires the seismic retrofitting of certain  
25 buildings to protect residents and preserve housing in the event of an earthquake. The purpose of this

1 Subsection 207(c)(5) is to provide exceptions from or modification of certain requirements of this Code  
2 in order to foster the creation of new Dwelling Units within existing buildings as they are seismically  
3 retrofitted.

4 (B) Applicability. The exceptions permitted by this Subsection shall apply to the  
5 addition of Dwelling Units which meet all of the following criteria. They are:

6 (i) located in a building undergoing mandatory seismic retrofitting in  
7 compliance with Section 34B of the Building Code or voluntary seismic retrofitting in compliance with  
8 the San Francisco Department of Building Inspection's Administrative Bulletin 094:

9 (ii) constructed entirely within an existing building zoned for Residential  
10 use, or within an existing and authorized auxiliary structure on the same lot. If allowed by the Building  
11 Code, buildings may be raised upon to three feet to create ground-floor ceiling heights suitable for  
12 residential use:

13 (iii) not located in an RH-1 or RH-1(D) District;

14 (iv) not constructed using space from an existing unit; and

15 (v) if the existing building or any existing Dwelling Unit within the  
16 building is subject to the provisions of the San Francisco Residential Rent Stabilization and Arbitration  
17 Ordinance (Chapter 37 of the Administrative Code), the property owner shall submit to the Department

18 (i) a proposed agreement demonstrating that the new units are not subject to the Costa Hawkins Rental  
19 Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has  
20 entered into this agreement with the City in consideration for a direct financial contribution or any  
21 other form of assistance specified in California Government Code Sections 65915 et seq.

22 ("Agreement") and (ii) if the Planning Director determines necessary, an Affidavit containing  
23 information about the direct financial contribution or other form of assistance provided to the property  
24 owner. The property owner and the Planning Director (or his designee), on behalf of the City, will  
25 execute the Agreement, which shall be reviewed and approved by the City Attorney's Office. The

1 Agreement shall be approved prior to the City's issuance of the First Construction Document, as  
2 defined in Section 107A.13.1 of the San Francisco Building Code.

3 (C) Exceptions Permitted. Dwelling Units meeting all of the criteria of  
4 Subsection 207(c)(5) above are exempt from the density limits, parking, rear-yard exposure, or open  
5 space standards of this Code.

6 **~~SEC. 207.4. DENSITY OF DWELLING UNITS IN NEIGHBORHOOD COMMERCIAL~~**  
7 **~~DISTRICTS.~~**

8 ~~The density of dwelling units in Neighborhood Commercial Districts shall be as stated in the~~  
9 ~~following subsections:~~

10 ~~(a) The rules for calculation of dwelling unit densities set forth in Section 207.1 of this Code~~  
11 ~~shall apply in Neighborhood Commercial Districts, except that any remaining fraction of 1/2 or more of~~  
12 ~~the minimum amount of lot area per dwelling unit shall be adjusted upward to the next higher whole~~  
13 ~~number of dwelling units.~~

14 ~~(b) The dwelling unit density in Neighborhood Commercial Districts shall be at a density ratio~~  
15 ~~not exceeding the number of dwelling units permitted in the nearest Residential District, provided that~~  
16 ~~the maximum density ratio shall in no case be less than the amount set forth in the zoning control~~  
17 ~~table for the district. The distance to each Residential District shall be measured from the midpoint of~~  
18 ~~the front lot line or from a point directly across the street therefrom, whichever permits the greater~~  
19 ~~density.~~

20 ~~The dwelling unit density for dwellings specifically designed for and occupied by senior citizens~~  
21 ~~or persons with physical disabilities shall be at a density ratio not exceeding twice the number of~~  
22 ~~dwelling units permitted by the limits set forth in Subsection (a).~~

23 ~~(c) The dwelling unit density in the RCD District and NCT Districts, as listed in Section~~  
24 ~~702.1(b), shall not be limited by lot area, but by the applicable requirements and limitations elsewhere~~  
25 ~~in this Code, including but not limited to height, bulk, setbacks, open space, exposure, and unit mix, as~~

1 ~~well as by applicable design guidelines, applicable elements and area plans of the General Plan, and~~  
2 ~~design review by the Planning Department.~~

3 **SEC. 208. DENSITY LIMITS ~~LIMITATIONS~~ FOR GROUP HOUSING.**

4 \* \* \* \*

5 (c) The rules for ~~calculating calculation of~~ dwelling unit ~~density densities~~ set forth in  
6 Section 207.1 shall also apply in ~~calculating calculation of~~ the density ~~limits limitations~~ for  
7 ~~g~~Group ~~h~~Housing, ~~except that in NC Districts, any remaining fraction of 1/2 or more of the maximum~~  
8 ~~amount of lot area per bedroom shall be adjusted upward to the next higher whole number of~~  
9 ~~bedrooms.~~

10 \* \* \* \*

11 **SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.**

12 In addition to those specified in Sections 302 through 306, and Sections 316 through  
13 316.6 of this Code, the Zoning Administrator shall have the following powers and duties in  
14 administration and enforcement of this Code. The duties described in this Section shall be  
15 performed under the general supervision of the Director of Planning, who shall be kept  
16 informed of the actions of the Zoning Administrator.

17 \* \* \* \*

18 (l) **Exceptions from Certain Specific Code Standards through Administrative**  
19 **Review in the Castro Street Neighborhood Commercial District and within 1,750 feet of**  
20 **the District boundaries, excluding any lot within 500 feet of Block 2623, Lots 116**  
21 **through 154.**

22 The Zoning Administrator may allow complete or partial relief from the density limits  
23 and from the parking, rear yard, exposure, or open space requirements of this Code when  
24 modification of the requirement would facilitate the construction of an In-Law Unit, as defined  
25 in Section ~~207(c)(4)~~ 715.1 of this Code, or an additional Dwelling Unit in a building undergoing

1 seismic retrofitting pursuant to Section 207(c)(5) of this Code. The exposure requirements of  
2 Section 140 apply, except that subsection (a)(2) may be satisfied through windows facing an  
3 open area that is at least 15 feet in every horizontal direction that is not required to expand on  
4 subsequent floors. In considering any request for complete or partial relief from these Code  
5 requirements, the Zoning Administrator shall facilitate the construction of such In-Law Units to  
6 the extent feasible and shall consider any criteria elsewhere in this Section 307 that he or she  
7 determines to be applicable.

8

9 Section 3. The Planning Code is hereby amended by revising Section 715.1 and the  
10 accompanying Zoning Control Table, to read as follows:

11 **SEC. 715.1. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

12 (a) **The Castro Street District.** The Castro Street District is situated in Eureka Valley,  
13 close to the geographic center of San Francisco between the Mission District, Twin Peaks,  
14 and Upper Market Street. The physical form of the district is a crossing at Castro and 18th  
15 Streets, the arms of which contain many small, but intensely active commercial businesses.  
16 The multi-purpose commercial district provides both convenience goods to its immediate  
17 neighborhood as well as comparison shopping goods and services on a specialized basis to a  
18 wider trade area. Commercial businesses are active both in the daytime and late into the  
19 evening and include a number of gay-oriented bars and restaurants, as well as several  
20 specialty clothing and gift stores. The district also supports a number of offices in converted  
21 residential buildings.

22 (b) **Intent of Controls.** The Castro Street District controls are designed to maintain  
23 existing small-scale development and promote a balanced mix of uses. Building standards  
24 permit small-scale buildings and uses and protect rear yards above the ground story and at  
25 residential levels. In new buildings, most commercial uses are permitted at the ground and

1 second stories. Special controls are necessary to preserve the existing equilibrium of  
2 neighborhood-serving convenience and specialty commercial uses. In order to maintain  
3 convenience stores and protect adjacent residential livability, controls authorize some  
4 additional eating and drinking establishments with a conditional use, permit self-service  
5 specialty food establishments, and permit with certain limitations new late-night uses, adult  
6 and other entertainment, and financial service uses. The continuous retail frontage is  
7 maintained by prohibiting most automobile and drive-up uses.

8 Housing development in new buildings is encouraged above the second story. Existing  
9 housing units are protected by limitations on demolitions and upper-story conversions. In-Law  
10 Units are permitted within the district pursuant to Subsection 207(c)(4) of this Code.

11 ~~(c) "In-Law Units." "In-Law Units," which are also known as Secondary Units or Accessory~~  
12 ~~Dwelling Units, are allowed in the Castro Street Neighborhood Commercial District and on a lot~~  
13 ~~within 1,750 feet of the District boundaries, excluding any lot within an RH-1(D) zoning district or any~~  
14 ~~lot within 500 feet of Block 2623, Lots 116 through 154. For purposes of this Section, an In-Law Unit is~~  
15 ~~defined as an additional dwelling unit that (1) is permitted to be constructed entirely within the existing~~  
16 ~~built envelope, as it existed three (3) years prior to the time of the application, of an existing building~~  
17 ~~zoned for residential use or within the envelope of an existing auxiliary structure on the same lot and~~  
18 ~~(2) will be constructed with a complete or partial waiver from the Zoning Administrator of the density~~  
19 ~~limits and/or the parking, rear yard, exposure, or open space standards of this Code pursuant to the~~  
20 ~~Special Provisions in Table 715 and Section 307(l).~~

21 ~~(1) Monitoring of Affordability. The Department shall establish a system to monitor~~  
22 ~~the affordability of the In-Law Units authorized to be constructed in the Castro Street Neighborhood~~  
23 ~~Commercial District by this Section 715.1. Property owners shall provide the Department with rent~~  
24 ~~information as requested by the Department. The Board of Supervisors recognizes that property owners~~  
25 ~~and tenants generally consider rental information sensitive and do not want it publicly disclosed. The~~

~~intent of the Board is for the Department to obtain the information so that it can be used by the Department in aggregate form, not in a manner that would be linked to specific individuals or units. The Department shall only request rental information from property owners if the notice includes the statement that the Department is acquiring it in confidence and will publicly disclose it only in aggregate form. The Department shall not ask property owners to provide rental information if it determines, after consulting with the City Attorney's Office, that the information would be publicly disclosable under federal, state, or local law in nonaggregated form.~~

~~(2) **Department Report.** The Department shall publish a report one year after the effective date of Subsection (c) that describes and evaluates the types of units being developed and their affordability rates. The report shall contain such additional information as the Director determines would inform decisionmakers and the public on the effectiveness and implementation of Subsection (c) and make recommendations for any amendments or expansion of areas where In-Law Units should be constructed. In subsequent years, information on In-Law Units shall be included in the Housing Inventory.~~

**SEC. Table 715. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Castro Street
			Controls
<b>BUILDING STANDARDS</b>			
*** 715.12 ***	Rear Yard	§§ 130, 134, 136	Required at the second story and above and at all residential levels § 134(a) (e) #

\*\*\*\*

No.	Zoning Category	§ References	Castro Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+

\*\*\*\*

**Retail Sales and Services**

****		§ 790.60,			
715.54	Massage Establishment	§ <del>1900</del> <u>29.1 - 29.32</u> Health Code	C#	C#	
****					

**RESIDENTIAL STANDARDS AND USES**

715.90	Residential Use	§ 790.88	P	P	P
715.91	<del>Residential Dwelling Unit Density, Dwelling Units</del>	§§ 207, <del>207.1, 790.88(a)</del>	Generally, <u>up to</u> 1 unit per 800 sq. ft. lot area. <u>Certain exceptions permitted by § 207(c)#.</u> § 207.4#		
715.92	Residential Density, Group Housing	§§ <del>207, 207.1, 208, 790.88(b)</del>	Generally, <u>up to</u> 1 bedroom per 275 sq. ft. lot area § 208		

\*\*\*\*

**SPECIFIC PROVISIONS FOR CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

Article 7 Code Section	Other Code Section	Zoning Controls
****		

**IN-LAW UNITS**

**Boundaries:** The Castro Street NCD and on a lot within 1,750 feet of the District boundaries, excluding any lot within 500 feet of Block 2623, Lots 116 through 154.

**Controls:** An "In-Law Unit," as defined in and meeting the requirements of Section 207(c)(4) 715, is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot *under the following conditions:*

§§ 715, 715.12, 715.91,  
715.93, 715.94

§  
207(c)(4)

- ~~(1) An In-Law Unit shall not be permitted in any RH-1(D) zoning district.~~
- ~~(2) An In-Law Unit shall be constructed entirely within the existing building envelope.~~
- ~~(3) For buildings that have no more than 10 existing dwelling units, one In-Law Unit is permitted; for buildings that have more than 10 existing dwelling units, two In-Law Units are permitted.~~
- ~~(4) An In-Law Unit shall not exceed 750 square feet of habitable space.~~
- ~~(5) An In-Law Unit shall not be constructed using space from an existing dwelling unit.~~
- ~~(6) Pursuant to the provisions of Section 307(1) of this Code, and In-Law Unit may receive a waiver of the~~

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	<p><del>density limits and parking, rear yard, exposure, or open space standards of this Code from the Zoning Administrator; provided, however, that if the existing building or any existing dwelling unit within the building is subject to the provisions of the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the San Francisco Administrative Code), the property owner shall submit to the Department (i) a proposed agreement demonstrating that the In-Law Unit(s) are not subject to the Costa Hawkins Rental Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has entered into this agreement with the City in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. ("Agreement") and (ii) if the Planning Director determines necessary, an Affidavit containing information about the direct financial contribution or other form of assistance provided to the property owner. The property owner and the Planning Director (or his designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City Attorney's Office. The Agreement shall be approved prior to the City's issuance of the</del></p>
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		<i>First Construction Document, as defined in Section 107A.13.1 of the San Francisco Building Code.</i>
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Section 4. The Planning Code is hereby amended by revising Section 790.60, to read as follows:

**SEC. 790.60. MESSAGE ESTABLISHMENT.**

(a) **Definition.** Massage establishments are defined by Sections ~~1900~~ 29.1 - 29.32 of the San Francisco Health Code. The massage establishment shall first obtain a permit from the Department of Public Health pursuant to Section 29.10 ~~1908~~ of the San Francisco Health Code.

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Section 5. The Planning Code is hereby amended by revising Section 710.1 and the accompanying Zoning Control Table, to read as follows:

**SEC. 710.1. NC-1 – NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT.**

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Table SEC. 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1  
ZONING CONTROL TABLE

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No.	Zoning Category	§ References	NC-1		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+

<b>Retail Sales and Services</b>					
****					
		§ 790.60			
		§ <del>1900</del> <u>29.1</u>			
710.54	Massage Establishment	<u>- 29.32</u>			
****					
<b>RESIDENTIAL STANDARDS AND USES</b>					
710.90	Residential Use	§ 790.88	P	P	P
710.91	<i>Residential Dwelling Unit</i> Density, <i>Dwelling Units</i>	§§ 207, <del>207.1,</del> <del>790.88(a)</del>	Generally, <i>up to</i> 1 unit per 800 sq. ft. lot area § <u>207(c)</u>		
710.92	Residential Density, Group **** Housing	§§ <del>207</del> <u>207.1,</u> <u>208,</u> <del>790.88(b)</del>	Generally, <i>up to</i> 1 bedroom per 275 sq. ft. lot area § 208		

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Section 6. The Planning Code is hereby amended to revise the following Sections by revising the Section headings and Subsections .54, .90, .91, and .92 of the accompanying Zoning Control Tables to correspond to the revisions to Section 710.1 and the Zoning Control Table in Section 710 shown in Section 5 of this ordinance.

Section 711.1. NC-2 – Small-Scale Neighborhood Commercial District

Section 712.1. NC-3 – Moderate-Scale Neighborhood Commercial District.

Section 713.1. NC-S – Neighborhood Commercial Shopping Center District.

Section 714.1. Broadway Neighborhood Commercial District.

Section 716.1. Inner Clement Street Neighborhood Commercial District.

- 1 Section 717.1. Outer Clement Street Neighborhood Commercial District.
- 2 Section 718.1. Upper Fillmore Street Neighborhood Commercial District.
- 3 Section 719.1. Haight Street Neighborhood Commercial District.
- 4 Section 720.1. Hayes-Gough Neighborhood Commercial District.
- 5 Section 721.1. Upper Market Street Neighborhood Commercial District.
- 6 Section 722.1. North Beach Neighborhood Commercial District.
- 7 Section 723.1. Polk Steet Neighborhood Commercial District.
- 8 Section 724.1. Sacramento Street Neighborhood Commercial District.
- 9 Section 725.1. Union Street Neighborhood Commercial District.
- 10 Section 726.1. Valencia Street Neighborhood Commercial District.
- 11 Section 727.1. 24th Street – Mission Neighborhood Commercial District.
- 12 Section 728.1. 24th Street – Noe Valley Neighborhood Commercial District.
- 13 Section 729.1. West Portal Neighborhood Commercial District.
- 14 Section 730.1. Inner Sunset Neighborhood Commercial District.
- 15 Section 731.1. NCT-3. Moderate-Scale Neighborhood Commercial Transit District.
- 16 Section 732.1. Pacific Avenue Neighborhood Commercial District.
- 17 Section 733.1. Upper Market Street Neighborhood Commercial Transit District.
- 18 Section 733A. NCT-1 – Neighorhood Commercial Transit Cluster District.
- 19 Section 734.1. NCT-2 – Small-Scale Neighorhood Commercial Transit District.
- 20 Section 735.1. SOMA Neighorhood Commercial Transit District.
- 21 Section 736.1. Mission Street Neighorhood Commercial Transit District.
- 22 Section 737.1. Ocean Avenue Neighorhood Commercial Transit District.
- 23 Section 738.1. Glen Park Neighorhood Commercial Transit District.
- 24 Section 739.1. Noriega Street Neighorhood Commercial District.
- 25 Section 740.1. Irving Street Neighborhood Commercial District.

1 Section 741.1. Taraval Street Neighborhood Commercial District.

2 Section 742.1. Judah Street Neighborhood Commercial District.

3 Section 743.1. Folsom Street Neighborhood Commercial Transit District.

4 Section 744.1. Regional Commercial District.

5 Section 745.1. Excelsior Outer Mission Street Neighborhood Commercial District.

6 The City Attorney shall prepare the revisions and confirm that the San Francisco Code  
7 Publisher has made the correct changes to the text of the Planning Code. No other additions  
8 or deletions to the Code are authorized by this Section.

9  
10 Section 7. The Planning Code is hereby amended to revise the following Sections by  
11 revising Subsection .54 of the accompanying Zoning Control Tables to substitute a cross-  
12 reference to Sections 29.1-29.32 of the Health Code for the existing cross-reference to  
13 Section 1900 of the Health Code.

14 Section 711. Small-Scale Neighborhood Commercial District NC-2.

15 Section 712. Moderate-Scale Neighborhood Commercial District NC-3.

16 Section 713. Neighborhood Commercial Shopping Center District NC-S.

17 Section 714. Broadway Neighborhood Commercial District.

18 Section 716. Inner Clement Street Neighborhood Commercial District.

19 Section 718. Upper Fillmore Street Neighborhood Commercial District.

20 Section 719. Haight Street Neighborhood Commercial District.

21 Section 720. Hayes-Gough Neighborhood Commercial District.

22 Section 721. Upper Market Street Neighborhood Commercial District.

23 Section 722. North Beach Neighborhood Commercial District.

24 Section 723. Polk Steet Neighborhood Commercial District.

25 Section 724. Sacramento Street Neighborhood Commercial District.

- 1 Section 726.1. Valencia Street Neighborhood Commercial District.
- 2 Section 727. 24th Street – Mission Neighborhood Commercial District.
- 3 Section 728. 24th Street – Noe Valley Neighborhood Commercial District.
- 4 Section 730. Inner Sunset Neighborhood Commercial District.
- 5 Section 731. Moderate-Scale Neighborhood Commercial Transit District NCT-3.
- 6 Section 733. Upper Market Street Neighborhood Commercial Transit District.
- 7 Section 734. Small-Scale Neighborhood Commercial Transit District NCT-2.
- 8 Section 735. SOMA Neighborhood Commercial Transit District.
- 9 Section 736. Mission Street Neighborhood Commercial Transit District.
- 10 Section 737. Ocean Avenue Neighborhood Commercial Transit District.
- 11 Section 738. Glen Park Neighborhood Commercial Transit District.
- 12 Section 739. Noriega Street Neighborhood Commercial District.

13 The City Attorney shall prepare the revisions and confirm that the San Francisco Code  
14 Publisher has made the correct changes to the text of the Planning Code. No other additions  
15 or deletions to the Code are authorized by this Section.

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17 Section 8. Effective Date. This ordinance shall become effective 30 days after  
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
20 of Supervisors overrides the Mayor’s veto of the ordinance.

21  
22 Section 9. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under  
2 the official title of the ordinance.

3

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

6 By: \_\_\_\_\_  
7 JUDITH A. BOYAJIAN  
8 Deputy City Attorney

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# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Supervisor Wiener

**Subject:**

Approval of a 60-Day Extension for Planning Commission Review of Exceptions from Dwelling Unit Density Limits and from Other Specified Code Requirements (File No. 140954)

**The text is listed below or attached:**

Resolution extending by 60 days the prescribed time within which the Planning Commission may render its decision on a Ordinance (File No. 140954) amending the San Francisco Planning Code to permit exceptions from dwelling unit density limits and other requirements of the Code when adding Dwelling Units to existing buildings undergoing seismic retrofiting; deleting the requirement that a new In-Law Unit constructed in and near the Castro Street Neighborhood Commercial District be limited to 750 square feet; correcting outdated cross-references and Code language; affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Signature of Sponsoring Supervisor:

*Scott Wiener*

For Clerk's Use Only:

